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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
ROCHELLE JORDAN,	)	OEA Matter No.: 2401-0080-10
SHEILA HANKLEY,	)	OEA Matter No.: 2401-0081-10
JAMES GRAHAM,	)	OEA Matter No.: 2401-0082-10
KLORIA NICHOLAS,	)	OEA Matter No.: 2401-0084-10
RUTH MERCEDEZ,	)	OEA Matter No.: 2401-0085-10
MARGARET PRESSON,	)	OEA Matter No.: 2401-0086-10
ALFREDA CLARK,	)	OEA Matter No.: 2401-0087-10
VONZELLA ABRAMS-HUBBARD,	)	OEA Matter No.: 2401-0088-10
ROBERT DAVIS,	)	OEA Matter No.: 2401-0089-10
LINDA HARRISON,	)	OEA Matter No.: 2401-0090-10
)	
Employee)	
	)	Date of Issuance: March 20, 2012
v.)	
)	
DISTRICT OF COLUMBIA)	
DEPARTMENT OF PARKS & RECREATION,	)	Monica Dohnji, Esq.
Agency	)	Administrative Judge
_____)	
Donald M. Temple, Esq., Employees' Representative)	
Shermineh Jones, Esq., Agency's Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 23, 2009, Employees listed in the above captioned matter filed separate petitions for appeals with the Office of Employee Appeals (“OEA”) contesting the Department of Parks and Recreation’s (“Agency”) action of abolishing their employment through a Reduction-in-Force (“RIF”). Each Employee’s termination was effective on September 25, 2009.

I was assigned this matter on or around January of 2012. Thereafter, counsel for Employees filed a Motion to Consolidate and requested that the appeals be joined in the interest of judicial and economic efficiency. This motion was granted and on February 29, 2012, I held a telephonic Status Conference with counsel for Agency and Employees. I subsequently issued an Order on February 29, 2012, requiring the parties to submit a joint written stipulation of facts regarding the RIF by March 16, 2012. The parties complied. The record is now closed.

JURISDICTION

This Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether Agency's action of separating Employees from service pursuant to a RIF was done in accordance with all applicable laws, rules, or regulations.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 628.2 *id.* states:

For appeals filed on or after October 21, 1998, the Agency shall have the burden of proof, except for issues of jurisdiction

ANALYSIS AND CONCLUSIONS OF LAW

Because Employee's termination was the result of a RIF, I am guided by D.C. Official Code § 1-624.08, which states in pertinent part that:

(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition... which shall be limited to positions in the employee's competitive level.

(e) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

(f) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except that:

(1) An employee may file a complaint contesting a determination or a separation pursuant to subchapter XV of this chapter or § 2-1403.03; and

(2) An employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (e) were not properly applied.

According to the preceding statute, I find that a District of Columbia government employee whose position was abolished pursuant to a RIF may only contest before this Office:

1. That he/she did not receive written notice thirty (30) days prior to the effective date of his/her separation from service; and/or
2. That he/she was not afforded one round of lateral competition within his/her competitive level.

On March 16, 2009, the parties submitted a joint stipulation of facts and jurisdiction, which states in pertinent part:

“The Employees here admit that they received both timely written notification at least thirty (30) days prior to the effective date of separation and a single round of competition. Based upon the foregoing, the parties stipulate that OEA does not have jurisdiction over the claims herein which are outside OEA’s jurisdiction.”

Contrary to the parties’ assertion that OEA does not have jurisdiction over these claims, I find that, OEA does have limited jurisdiction as it pertains to whether the Employees received one round of lateral competition and whether they were afforded at least thirty (30) days written notice prior to the effective date of the RIF. *See* D.C. Official Code § 1-624.08. The Petitioners concede that they received the statutorily required one round of lateral competition and thirty (30) days written notice prior to the effective date of the RIF. Based on the record, I find that Agency complied with D.C. Official Code § 1-624.08. Agency properly implemented the RIF which resulted in each Employee’s termination. Accordingly, this matter should be dismissed.

ORDER

It is hereby ORDERED that Agency’s action of abolishing Employees’ position through a Reduction-In-Force is UPHELD

FOR THE OFFICE:

MONICA DOHNJI, ESQ.
ADMINISTRATIVE JUDGE