

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Administrative Assistant of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)
)
TIMOTHY MORRIS)
Employee)
)
v.)
)
DEPARTMENT OF MENTAL)
HEALTH)
Agency)
_____)

OEA Matter No. 2401-0080-03P04

Date of Issuance: February 10, 2004

OPINION AND ORDER
ON
PETITION FOR REVIEW

On March 21, 2003, Employee filed with the Office of Employee Appeals (OEA) a Petition for Appeal from Agency's alleged action separating him from government service pursuant to a reduction-in-force. Because Employee did not attach to his appeal form a copy of the final Agency decision from which he was appealing, by letter dated November 19, 2003, OEA's Administrative Assistant notified Employee that a question existed as to whether the Office had jurisdiction over his appeal. Employee was given until December 1, 2003 to submit a copy of the final Agency decision. By Initial Decision dated December 19, 2003, the

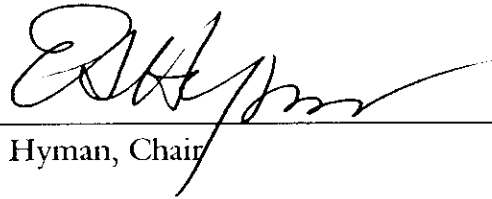
Administrative Judge dismissed Employee's appeal for failure to prosecute believing that Employee had not responded to the Administrative Assistant's November 19, 2003 letter.

On January 23, 2004, Employee filed with this Board a timely Petition for Review of the Initial Decision in which he states that he submitted a copy of the final Agency decision on December 11, 2003 before the Administrative Judge dismissed his appeal. He attached to his Petition a copy of the final Agency decision that had in fact been stamped as received by this Office on December 11, 2003. Because Employee's submission was not considered before his appeal was dismissed, this matter shall be remanded to the Administrative Judge for further proceedings on Employee's appeal.

ORDER

Accordingly, it is hereby **ORDERED** that the Initial Decision is **VACATED**, Employee's Petition for Review is **GRANTED** and this appeal is **REMANDED** to the Administrative Judge for further action consistent with this order.

FOR THE BOARD:

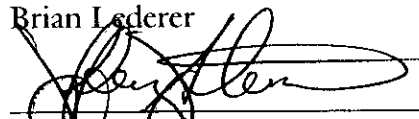


Erias A. Hyman, Chair

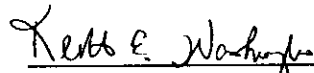
Horace Kreitzman



Brian Lederer



Jeffrey J. Stewart



Keith E. Washington

The initial decision in this matter shall become a final decision of the Office of Employee Appeals five days after the issuance date on this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.