

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager 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:)	
)	
VIRGIL ROYAL,)	OEA Matter No. 1601-0093-06
Employee)	
)	Date of Issuance: October 4, 2007
)	
)	
UNIVERSITY OF THE DISTRICT OF)	
COLUMBIA,)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Mr. Virgil Royal (“Employee”) worked for the University of the District of Columbia (“Agency”) for thirty-six years. On June 16, 2006, he received a notice of termination. The notice outlined that he was terminated for falsifying official records, dishonesty, and inexcusable absence without leave.¹

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on July 13, 2006. He argued that the Union Contract and personnel policy were both violated when Agency terminated him. He requested that OEA clear him of the

¹ *Employee’s Petition for Appeal*, p. 6 (July 13, 2006).

alleged charges that resulted in his termination.²

Agency filed its answer to Employee's Petition for Appeal on August 31, 2006. It provided that Employee was on sick leave from January 6th-11th and then again from January 17th – February 2nd. Employee informed his supervisor that he would provide a doctor's note for the days that he was absent. When Employee returned to work, he provided doctor's notes which appeared to be altered. After an investigation, Agency determined that the notes were altered and proposed to terminate Employee. Employee was removed for cause on June 20, 2006.³

Before an Initial Decision was issued in the matter, the parties took advantage of OEA's mediation program. In June of 2007, Employee and Agency agreed on settlement terms and signed the agreement. On June 20, 2007, Employee filed a notice with OEA voluntarily withdrawing his appeal.

On June 21, 2007, the Administrative Judge ("AJ") issued his Initial Decision. He reasoned that due to the parties' successful negotiation and Employee's withdrawal of his appeal, the issues from Employee's appeal were resolved. Therefore, Employee's Petition for Appeal was dismissed.⁴

Employee filed a Petition for Review on August 31, 2007. He alleged that the AJ was rude and that he had evidence that Agency violated protocol. However, Employee failed to provide said evidence. He further asserted that the union contract was violated and that he submitted the contract and other documents to the AJ. Employee also

² *Id.* at 3.

³ *University of the District of Columbia's Answer to the Employee's Petition for Appeal*, p. 1 (August 31, 2006).

⁴ *Initial Decision*, p. 1-2 (July 12, 2007).

provided that the AJ refused to advise him of his rights.⁵

OEA Rule 607.10 provides that “if parties reach settlement, the matter shall be dismissed in accordance with D.C. Official Code §1-606.6(b).” Because the parties in this case entered into a settlement agreement, the AJ did not make any decisions on the merits of the case. Therefore, the Board must determine if the AJ erred in dismissing Employee’s appeal.

D.C. Official Code §1-606.6(b) provides that

settlement of the dispute may be raised by the Hearing Examiner with the parties at any time. If the parties agree to a settlement without a decision on the merits of the case, a settlement agreement, prepared and signed by all parties, shall constitute the final and binding resolution of the appeal, and the Hearing Examiner shall dismiss the appeal with prejudice.

The Code is clear and leaves no room for interpretation when it provides that the Hearing Examiner *shall* dismiss the appeal with prejudice. Therefore, when the AJ in this matter was provided with a copy of the signed settlement agreement, he properly followed the language outlined in the Code and dismissed Employee’s appeal.

Furthermore, the signed settlement agreement clearly provides in paragraph 2 that “in exchange for the receipt of the payment provided to Claimant pursuant to the terms of this Agreement, Claimant agrees to request withdrawal of his Office of Employee Appeals (OEA) Charges within seven (7) business days following the payment.” Employee filed a withdrawal of his appeal to OEA on June 20, 2007, as the settlement agreement outlined. On July 16, 2007, Agency provided proof that Employee received payment. Employee does not claim to have misunderstood the terms of the settlement

⁵ *Petition for Review* (August 31, 2007).

agreement in his Petition for Review. He signed the agreement freely under the witness of a notary public. Therefore, we conclude that the AJ was proper in dismissing his appeal.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

Brian Lederer, Chair

Horace Kreitzman

Keith E. Washington

Barbara D. Morgan

Richard F. Johns

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of 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.