

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:)	
)	
THERESA C. SCALDAFERRI)	
Employee)	
)	
)	OEA Matter No. 2401-0003-00
v.)	
)	Date of Issuance: October 26, 2004
)	
OFFICE OF THE SECRETARY)	
Agency)	
)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee was a Staff Assistant with Agency when it notified her that her position would be abolished pursuant to a reduction-in-force (RIF). Agency notified Employee of the impending RIF on September 15, 1999, and told her that her separation from District government service would take effect September 30, 1999.

Employee timely filed a Petition for Appeal with the Office of Employee Appeals. Once the Administrative Judge disposed of several arguments that were not a valid challenge to the RIF, she issued an Initial Decision on June 27, 2003, in which she upheld Agency's action

separating Employee by the RIF. The Administrative Judge did find, however, that Agency had failed to give Employee a written notice of at least thirty (30) days before the effective date of her separation. Agency's failure in this regard violated D.C. Code Ann. § 1-625.7(e). If Agency had complied with this provision, the effective date of the RIF could not have been before October 15, 1999. To rectify this violation, the Administrative Judge ordered that Agency grant Employee all creditable service, salary, and benefits she should have received from October 1, 1999 through October 15, 1999.

Employee has now timely filed a Petition for Review. In her petition she contends that Agency has refused to allow her to speak with a former Agency employee and that Agency has refused to supply her with documents pertaining to a position that Agency supposedly added after her position was abolished. We do not believe either one of these arguments has merit. Rather we agree with the Administrative Judge's holding that this "Office's review in a RIF appeal is limited by law to determining whether an agency afforded an employee (1) a round of lateral competition in the correct competitive level and (2) written notice of at least thirty (30) days before the effective date of his or her separation." *Initial Decision* at 8. As we have already noted, Agency's failure to give Employee the proper notice has been remedied. Thus the only issue left for Employee to contest would be whether Agency afforded her one round of lateral competition in the correct competitive level. Because Employee's Petition for Review does not dispute this issue, we must deny her petition and uphold the Initial Decision.

ORDER

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

FOR THE BOARD:



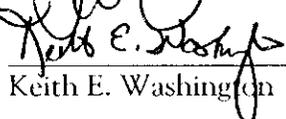
Erias A. Hyman, Chair

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 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.