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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
JOHN F. TATUM, JR.)	OEA Matter No. 2401-0013-03C05
Employee)	
)	Date of Issuance: October 21, 2005
v.)	
)	Daryl J. Hollis, Esq.
)	Senior Administrative Judge
D.C. PUBLIC SCHOOLS)	
Agency)	
_____)	

Omar Vincent Melchy, Esq., Employee Representative
Harriet Segar, Esq., Agency Representative

ADDENDUM DECISION ON COMPLIANCE (ATTORNEY FEES)

INTRODUCTION AND PROCEDURAL HISTORY

On November 19, 2002, Employee, an Assistant Principal, ET-08, filed a petition for appeal in which he claimed that his employment ended without any notice on September 30, 2002. This appeal was docketed as *John F. Tatum, Jr. v. D.C. Public Schools*, OEA Matter No. 2401-0013-03 and was assigned to Administrative Judge Susan Hoppe King on December 19, 2002.

By Judge King's Order issued December 23, 2002, Agency was given a deadline of January 21, 2003 to respond to Employee's appeal. However, Agency did not comply with that deadline. On January 28, 2003, Judge King held a Prehearing Conference. At that proceeding, the exact nature of Agency's action and what rights, if any, Employee had to

challenge the action were not clear from the parties' discussions. Therefore, Agency, which had not yet responded to Employee's appeal, was again ordered by Judge King to do so.

Agency filed its response on March 20, 2003. Agency stated that Employee was appointed to the position of Assistant Principal, ET-08, under a three-year grant program known as the Twenty-first Century Community Learning Centers Grant. It was clearly understood from the terms of the grant that the program had a duration of only three years. Prior to his appointment as an Assistant Principal, Employee held permanent status as an ET-15 Teacher.

On April 14, 2003, Employee, through counsel, filed a Motion and Memorandum Supporting Summary Judgment in which he claimed that Agency violated its own regulation by failing to place him in an ET-15 teaching position when his temporary appointment to Assistant Principal expired on September 30, 2002. On May 16, 2003, Agency filed a response to Employee's motion in which it admitted that he should have been offered an ET-15 teaching position when his temporary appointment to the position of Assistant Principal ended.

Judge King held a Status Conference on June 2, 2003, at which time she advised the parties that Employee's motion for summary judgment was granted. On June 6, 2003, Judge King issued an Initial Decision (ID) in which she ordered that:

1. Agency's action terminating Employee effective September 30, 2002 is REVERSED; and
2. Agency place Employee in a position of ET-15 Teacher, made retroactive to September 30, 2002; and
3. Agency file with this Office, within thirty (30) days from the date on which this decision becomes final, documents showing compliance with the terms of this Order.

ID at 4-5. (emphasis in original). No appeal of the ID was taken, and thus it became a Final Decision of the Office on July 11, 2003. *See* OEA Rule 633.1, 46 D.C. Reg. 9319 (1999).

On July 28, 2003, September 10 and 29, 2003, November 8, 2004 and May 5, 2005, Employee submitted motions for an award of attorney fees and costs in the total amount of \$23,284.23. On June 2, 2005, I issued an Addendum Decision on Attorney Fees (ADAF) in which I ordered Agency to pay Employee, within 30 days from the date on

which the ADAF became final, \$22,946.73 in attorney fees and costs. Agency did not appeal the ADAF, and thus it became a Final Decision of the Office on July 7, 2005. See OEA Rule 633.1, 46 D.C. Reg. at 9319. Agency should have paid Employee the required amount of attorney fees and costs by the close of business on August 8, 2005. However, it did not do so.

On August 17, 2005, Employee submitted a motion for compliance on the attorney fees matter in which he claimed that Agency has not yet paid him the required amount. By my Order issued on August 22, 2005, Agency was required to respond to Employee's motion by the close of business on September 13, 2005. On or around September 13, Ms. Segar advised me that Agency had not yet paid the attorney fees, but that it was in the process of doing so. On October 21, 2005, Mr. Melehy informed me that the attorney fees had been paid. The record is closed.

JURISDICTION

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

ISSUE

Whether this compliance matter may now be dismissed.

ANALYSIS AND CONCLUSIONS

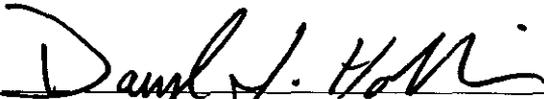
OEA Rule 636.7, 46 D.C. Reg. at 9322, states that in a compliance matter, the Administrative Judge "shall take all necessary action to determine whether the final decision is being complied with and shall issue a written opinion on the matter."

Mr. Melehy has advised me that the required amount of attorney fees and costs has been paid. Thus, Agency is now in compliance with the terms of the Final Decision in the attorney fees matter. Therefore, I conclude that this compliance matter may now be dismissed.

ORDER

It is hereby ORDERED that this compliance matter is DISMISSED.

FOR THE OFFICE:


DARYL J. HOLLIS, Esq.
Senior Administrative Judge