

Issue: Group III Written Notice (hostile, abusive and threatening behavior towards subordinates); Hearing Date: July 26 and 27, 2001; Decision Date: August 8, 2001; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; AHO: David J. Latham, Esquire; Case Number: 5191

**DEPARTMENT OF EMPLOYMENT DISPUTE RESOLUTION
DIVISION OF HEARINGS**

DECISION OF HEARING OFFICER

In the matter of Department of Mental Health, Mental Retardation and Substance Abuse Services
Case Number 5191

Hearing Dates: July 26 & 27, 2001
Decision Issued: August 8, 2001

PROCEDURAL ISSUES

Due to unavailability of either parties, attorneys or witnesses, the grievance could not be docketed for a hearing until the 34th day following appointment of the hearing officer.

A question arose as to whether grievant should have had access to the grievance procedure. The hearing officer resolves that issue in the grievant's favor for two reasons. First, in order to access the grievance procedure, an employee must meet all of the following criteria:

1. Must not be listed as exempt from the Virginia Personnel Act under §2.1-116 of the Code of Virginia;
2. Must have been a non-probationary employee of the Commonwealth at the time the event that formed the basis of the dispute occurred; and,
3. Must be a non-probationary employee of the Commonwealth at the time the grievance is initiated (unless the action grieved is a termination or involuntary separation).¹

The Hearing Officer finds that grievant did meet all three criteria when he initiated his grievance on February 13, 2001. Second, the agency acquiesced to grievant's access to and participation in the grievance process when it actively participated in the process through three resolution steps and subsequently qualified the grievance for a hearing.

APPEARANCES

Grievant
Attorney for Grievant
Legal Assistant for Grievant's Attorney
Five witnesses for Grievant

¹ § 2.3, *Grievance Procedure Manual*, effective July 1, 2000.

Court Reporter for Grievant
Employee Relations Manager
Legal Representative for Agency
Three witnesses for Agency

ISSUES

Was the grievant's conduct during 1999 and 2000 such as to warrant disciplinary action under the Commonwealth of Virginia Standards of Conduct? If so, what was the appropriate level of disciplinary action for the conduct at issue?

FINDINGS OF FACT

On February 13, 2001, the grievant filed a timely appeal from a Group III Written Notice issued on February 7, 2001 because he allegedly acted in a hostile, abusive and threatening manner towards subordinates, because he was allegedly disruptive and because he allegedly misused a television camera on one occasion. In addition, the grievant was suspended for a period of 30 days and transferred to another agency facility located approximately 50 miles away. Following failure to resolve the grievance at the third resolution step, the agency head qualified the grievance for a hearing. The grievant resigned from state employment on March 9, 2001.

The Department of Mental Health, Mental Retardation and Substance Abuse Services (Hereinafter referred to as "agency") has employed the grievant for 25 years. At the time the disciplinary action was issued, grievant was the Chief Information Officer at a hospital facility.

Background

A complete understanding of this case requires an explanation of the historical background that ultimately led to the disciplinary action imposed on the grievant. Prior to 1999, four different directors had managed the hospital in as many years. During the mid to late 1990s, this rapid succession of hospital directors was accompanied by a significant deterioration in the quality of patient care, medical recordkeeping, and staff accountability. When the current hospital director arrived at the facility in early 1999, the hospital was "a mess."² During the previous several years, a number of patients had died at the hospital due to various types of neglect by hospital staff. The situation had become so egregious that the federal Department of Justice (DOJ) filed suit against the facility and was threatening to close the hospital unless sweeping and significant improvements were made.

The new director faced a monumental challenge because many of the hospital staff had become accustomed to performing their jobs in a lackadaisical manner and at levels significantly below their position requirements. The new hospital director concluded that at least two major

² The hospital director's characterization during his testimony at this hearing.

initiatives would be required.³ First, he found that medical recordkeeping was significantly deficient and that there was a dearth of management information reporting. The director gave the grievant responsibility for developing a variety of management information reports designed to keep management more fully informed and also gave him responsibility for improvements in medical recordkeeping. The grievant had been the management information systems (MIS) officer but, with the expansion of his responsibilities, the director named him chief information officer.

The second major initiative was to motivate all employees to perform their jobs at a satisfactory level and to take accountability for everything they did. This was the more difficult initiative of the two because it involved a large number of employees who lacked good work ethics⁴ and who had been lulled into a false sense of security by years of ineffective leadership. Working harder and being more responsible were concepts that were accepted by those employees with good work ethics. Others, however, were resistant to change and became upset that the status quo was no longer acceptable.

To avoid a closure of the hospital by DOJ, a settlement agreement was reached in which the hospital committed to achieving certain standards by July 1, 2000. Once this target date had been established, facility management and supervision knew that a finite amount of time existed within which to bring all aspects of hospital operation up to par. During the early part of 2000, as the deadline was looming, the pressure to perform increased. Management and supervision were responsible to achieve the standards, and therefore, to put sufficient pressure on subordinates to get them to perform satisfactorily.

Concurrent with the need to make major changes, the hospital director and the grievant evolved a strategy for dealing with employees. In essence, the approach taken was the “bad cop, good cop” routine. Grievant was to be the bad cop, taking the lead to disseminate and implement unpopular changes that the director determined were necessary. The director would be the “good cop,” calming down those who became too upset about the changes being made. The director also referred to grievant as his “hit man.” Grievant agreed to play his role as bad cop, believing that he was following a reasonable directive from his superior, and that it was necessary in order to achieve the compliance goals by the deadline. Thus, grievant knowingly allowed himself to become the magnet for the unhappiness of a significant number of employees. The director, grievant and two other management people worked together extremely closely. The four people met for breakfast in the office every morning at about 7:15 and almost always went to lunch together. The four developed such a close working relationship that many lower-level employees perceived the group as a tight little clique.

As the deadline of July 1, 2000 approached, it became apparent that the hospital would not achieve the required standards by that date. The agency and DOJ negotiated an extension of the deadline until December 31, 2000. By July, it became apparent to the director that even the extended deadline might be impossible to achieve because many employees were not responding as quickly or as effectively as was necessary. Therefore, the director began to apply significantly

³ There may well have been other initiatives but they were not discussed during the hearing.

⁴ As an example of the poor work ethic, one employee related that some smokers had been taking 20-30 minute breaks five or six times each day. Exhibit 12, page 6. Interview form.

more pressure to management and supervision. In July and early August, two anonymous letters were sent to the Governor and a telephone call was made to the Governor's hotline. The complaints alleged that the management team were dictators, that the grievant was having a personal relationship in the office (even though he is married), that the grievant was harassing employees, and that the atmosphere at the hospital was hostile. The complaints were referred to the agency's commissioner who directed that an investigation be conducted by the employee relations manager and the internal audit manager.

These two managers went to the hospital and began to interview employees. Because the anonymous complaints mentioned grievant by name, the investigators initially sought out employees with complaints about grievant. As they found employees with complaints, they continued to focus on grievant's behavior and asked for the names of other employees who also were unhappy. Some, but not all, of grievant's direct reports, were interviewed. Employees at the facility quickly learned via the grapevine that the investigation was focused on the grievant.⁵

A questionnaire was given to approximately 25 employees. Based on the questionnaires and/or interviews with a total of 32 people, the two managers prepared a report for the agency's commissioner.⁶ However, before the report had been finalized, the two managers discussed their findings and conclusions with the commissioner, associate commissioner, and the human resources manager. This group concluded that the grievant should be discharged from employment. On October 19, 2000, the hospital director was summoned to central office, where he was told of the decision. He was directed to return to his facility and issue a letter to grievant notifying him that he was suspended effective immediately and that his employment was likely to be terminated.

Grievant thereafter retained an attorney, who negotiated the issue with agency management for the next three months. The agency finally decided that grievant would be given a Group III Written Notice and transferred to another hospital located approximately 50 miles away. The grievant was notified of this action on February 7, 2001.

Grievant separated from his wife in May 2000. Grievant has custody of a 17-year-old son who has a severe learning disability for which he receives specialized care and treatment. That care and treatment is not available in the area to which grievant had been transferred. He therefore could not move his residence to the other community and began to commute the added 50 miles (one-way) each day to the other hospital. However, grievant had undergone back surgery in July 2000 and such a long daily drive aggravated his back problems. Grievant therefore decided to resign from state employment effective March 9, 2001.

Threatening or Coercing State Employees

Grievant had told employees who were not meeting expectations that they could receive written notices for failure to perform at satisfactory levels. He also had told more than one employee that they might lose their jobs if they did not meet established standards for quality, quantity or both. When speaking with such employees, he was perceived as aggressive,

⁵ Grievant's Exhibit 7. This statement was not rebutted by the agency.

⁶ Exhibit 1. [Name of hospital] Management Review, October 26, 2000.

threatening, blunt, rude, harassing and intimidating.⁷ He hit his hand on the table while engaged in one such counseling meeting.⁸ Grievant was adamant about people adhering to deadlines that he had established for the completion of reports or projects. When one employee balked at a transfer that grievant initiated, he became vindictive toward her and began focusing on her attendance, which had not previously been an issue.

No employees alleged that they had been physically threatened by grievant. Employees did feel anxious and fearful about the security of their jobs. Some of the respondents to the questionnaire had no adverse experiences themselves but did relate what another employee had told them about grievant's actions. Several of these hearsay statements related back to the same individual – the manager of medical records.

Abusive Language

Grievant and the special assistant to the director met frequently in her office and often discussed the shortcomings of staff. These conversations were intended to be private but were overheard by the confidential secretary who, in her questionnaire characterized them as “verbal abuse.” One employee described grievant as cynical and sarcastic when conversing with others.⁹ Grievant often raised his voice when counseling employees and when making assignments.¹⁰ Another employee described the grievant as overbearing, a know-it-all, always has to have the last word, condescending and quick to anger; he treats subordinates like peons.¹¹

Disruptive Behavior

The investigator's report refers to workplace disruption in the section addressing inappropriate displays of affection at work. The report notes that such disruption “seems to have been caused more by the gossip ... than by any inappropriate physical displays.”¹² The investigators also concluded that conversations overheard by other employees in which grievant spoke disparagingly of certain people were disruptive.

Misuse of State Property

Grievant and the special assistant to the hospital director became involved in a personal relationship. The relationship was widely discussed in the hospital and was the subject of much gossip. On one occasion, grievant, the special assistant and a technician were in a room making preparations for the use of a television camera. Grievant began playing with the camera and, at one point, directed it toward the chest of the special assistant, which was visible on the television monitor in the room. She giggled and said words to the effect of, “Oh, stop it,” and walked out of camera range.

⁷ Exhibit 9. Employee questionnaire.

⁸ Exhibit 9. *Ibid.*

⁹ Exhibit 13. Employee questionnaire.

¹⁰ Exhibits 13 & 15. *Ibid.*

¹¹ Exhibit 15. *Ibid.*

¹² Exhibit 1. *Ibid.*

APPLICABLE LAW AND OPINION

The General Assembly enacted the Virginia Personnel Act, Va. Code § 2.1-110 et seq., establishing the procedures and policies applicable to employment within the Commonwealth. This comprehensive legislation includes procedures for hiring, promoting, compensating, discharging and training state employees. It also provides for a grievance procedure. The Act balances the need for orderly administration of state employment and personnel practices with the preservation of the employee's ability to protect his rights and to pursue legitimate grievances. These dual goals reflect a valid governmental interest in and responsibility to its employees and workplace. Murray v. Stokes, 237 Va. 653, 656 (1989).

Code § 2.1-116.05(A) sets forth the Commonwealth's grievance procedure and provides, in pertinent part:

It shall be the policy of the Commonwealth, as an employer, to encourage the resolution of employee problems and complaints . . . To the extent that such concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes which may arise between state agencies and those employees who have access to the procedure under § 2.1-116.09.

In disciplinary actions, the agency must show by a preponderance of evidence that the disciplinary action was warranted and appropriate under the circumstances.¹³

To establish procedures on Standards of Conduct and Performance for employees of the Commonwealth of Virginia and pursuant to § 2.1-114.5 of the Code of Virginia, the Department of Personnel and Training¹⁴ promulgated Standards of Conduct Policy No. 1.60 effective September 16, 1993. The Standards of Conduct provide a set of rules governing the professional and personal conduct and acceptable standards for work performance of employees. The Standards serve to establish a fair and objective process for correcting or treating unacceptable conduct or work performance, to distinguish between less serious and more serious actions of misconduct and to provide appropriate corrective action.

Section V.B.3 of the Commonwealth of Virginia's *Department of Personnel and Training Manual* Standards of Conduct Policy No. 1.60 provides that Group I offenses are the least severe; examples include the use of abusive language and, disruptive behavior. Group II offenses include acts and behavior which are more severe in nature and are such that an accumulation of two Group II offenses normally should warrant removal [from employment]. Misuse of state property failure is a Group II offense. Group III offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. Threatening or coercing state employees is a Group III offense.

Threatening or Coercing State Employees

¹³ §5.8 Department of Employment Dispute Resolution, *Grievance Procedure Manual*, effective July 1, 2000.

¹⁴ Now known as the Department of Human Resource Management (DHRM).

The evidence does not support a conclusion that grievant physically threatened any employee or that he coerced any employee to do anything not required by their position description. He did advise employees that they might be subject to disciplinary action, up to and including discharge, if they did not perform at satisfactory levels. In so doing, grievant was stern, overbearing and, at times loud in counseling employees. At times he was rude, harassing and so intimidating in demeanor as to make certain employees feel “threatened.”

Abusive Language

Grievant did not use obscene, vulgar or abusive language. However, his overall demeanor, tone of voice and condescending manner was reasonably perceived by others to be “abusive.”

Disruptive Behavior

The behavior cited by the agency as disruptive was 1) the fact that employees were gossiping about grievant’s personal relationship and, 2) the fact that employees had overheard grievant make disparaging remarks about certain employees.

However, the agency has acknowledged that there is no agency policy that prohibited the consensual relationship in which grievant was involved. While the relationship may have been ill-advised, grievant did not enter the relationship with the intent to disrupt the workings of the agency. He could not control the fact that others elected to gossip about a relationship that was none of their business. Similarly, grievant’s disparaging remarks about certain employees were also in poor judgement. However, there has been no evidence that grievant knew his private conversations would be overheard and gossiped about by others.

Therefore, it cannot be concluded that either the gossip of others or the inappropriate remarks by grievant constitute “disruptive behavior” as that term is generally used in the Standards of Conduct. The grievant was certainly guilty of using poor judgement but, standing alone, these issues would most appropriately be addressed by counseling from his supervisor.

It is also interesting to note that grievant’s wife offered compelling testimony on his behalf and wrote a letter of support to the agency’s commissioner in October 2000. Even though grievant is separated from his wife, and she is fully aware of his relationship with the director’s special assistant, she feels that his personal life should not affect any actions the agency might take against her husband. She presented balanced testimony acknowledging that the grievant is a serious person who can appear very stern and unyielding but averred that he has no history of aggressive or violent behavior.

Misuse of State Property

Directing a television camera at the chest of the director’s special assistant was inappropriate behavior because another employee was present at the time. However, this was done in the course of preparing and testing television equipment. Grievant could have directed

the camera at anything else in the room and it would have been considered harmless. Grievant obviously used poor judgement when he directed the camera at his paramour's chest. However, he did not damage the equipment in any way. To characterize his action as "misuse" of state property is not what is intended by the offense cited in the Standards of Conduct. This incident does not warrant disciplinary action; counseling would be an appropriate corrective action.

Other Relevant Factors

The investigation was conducted during August and September 2000. The grievant had back surgery in July and was on sick leave until mid-September 2000. Employees quickly learned that grievant was the focus of the investigation; this may have lead some employees to unload their displeasure about the changes being implemented by the agency on the grievant's doorstep.

The agency's human resource director wrote the disciplinary action and the hospital director was then told to sign and administer the discipline. The human resource director testified at the hearing that she did not consider the relationship between grievant and the director's special assistant to be disruptive. However, **the Written Notice states**, in pertinent part: "The investigation also substantiated allegations of your disruptive behavior in connection with your personal relationship with a coworker."¹⁵ Moreover, nearly two full pages of the investigator's report discusses this relationship and makes essentially the same conclusion found in the written notice. Those who decided upon the disciplinary action relied heavily on this report. Although the agency now disavows that grievant's personal relationship was the subject of discipline, the evidence conclusively indicates otherwise.

Because the management team (director, grievant, special assistant and human relations manager) worked so closely together, some of the dissatisfied employees believed complaints to the director would be ignored. Therefore, some of these people did not complain about what they perceived as the grievant's harsh behavior.

The hospital director's executive secretary has a reputation for disclosing confidential information. This had become a significant enough problem that the director replaced the glass door separating their offices with a solid door that is significantly more soundproof. The secretary's disclosure of confidences to others contributed to the negative atmosphere about which several employees complained. She also overheard management discussions about certain personnel in the adjoining office of the special assistant to the director and characterized such private discussions as "verbal abuse/harassment" in her questionnaire.

Part of the investigator's report relies on the fact that a grievance had been filed complaining about grievant's behavior. The use of this as evidence to support the report's conclusions is inappropriate because the grievance was pending and had not been proven when the report was written. The report also discusses other alleged inflammatory incidents such as the "water tower" remark. Although the agency contends that such incidents were not part of the discipline, they were part of the report upon which the agency's commissioner relied before

¹⁵ Exhibit 3. *Group III Written Notice*, issued February 7, 2001.

directing that discipline be issued. Even the mere mention of these incidents in the report could serve only to paint a negative picture of grievant's behavior.

The report does not provide a balanced discussion of the information elicited from those interviewed during the investigation. Rather it summarizes all of the negative information adduced without giving appropriate consideration to positive comments from some of those interviewed. Some of the questionnaires contain no negative information about the grievant but this is not mentioned in the report. The report also states that the investigators "suspect that other participants in the process may have withheld information." What information? What is the basis for the suspicion? Without explanation, the suspicion alone is merely veiled innuendo that can only discredit the grievant. The report also mentions that grievant was considering legal action against certain employees. Without further explanation, the inference is that grievant is unfairly punishing employees. The report fails to consider that the legal action may be entirely justified. Moreover, the possibility of legal action was a mere rumor at the time the report was written. Inclusion of this comment was inflammatory, prejudicial and inappropriately skewed the report against the grievant.

Grievant alleges his transfer was retaliatory but has proffered no evidence to support the allegation. The best evidence available supports a conclusion that the agency believed that the transfer was in the best interest of the agency, the hospital, and the employees.

Conclusion

The evidence in this case supports some of the conclusions in the investigator's report. Grievant's behavior and attitude were abusive and his behavior was widely perceived as hostile and intimidating. The report recommended that grievant take an anger management course and that is certainly an appropriate suggestion.

As should be apparent, there were several factors that resulted in the grievant being disciplined. First, during 1999 and 2000, pressure was escalating on all employees to perform at levels that would permit the hospital to survive the DOJ inspection. This alone made all employees fearful that their jobs might end in the near future. Second, the director and grievant agreed upon the good cop/bad cop strategy, which resulted in grievant being the focus for the negative feelings of employees. Third, because of the very close relationship between the director and grievant, employees believed it was pointless to complain to the director. Fourth, the director's management style isolated him from daily contact with the rank-and-file employees so he did not receive feedback about employee reaction to grievant's behavior. Fifth, the grievant's marriage had fallen apart causing stress that negatively impacted his behavior. Sixth, grievant played the role of bad cop much too convincingly, resulting in several employees becoming resentful, fearful and intimidated. Finally, grievant reasonably believed he was doing the right thing because his supervisor had suggested it and, because his behavior was reinforced in his performance appraisal.

Relief

The grievance procedure sets forth the authority of a hearing officer.¹⁶ That procedure also sets forth examples of relief that may be available, as well as the types of relief that are not available. For example, a hearing officer may reinstate an employee to his former position or, if occupied, to an objectively similar position.¹⁷ However, a hearing officer may not provide any relief that is inconsistent with the grievance statute or procedure.¹⁸ In a situation where the hearing officer appropriately concludes that disciplinary action is totally unjustified, he may rescind the disciplinary action, reinstate the grievant and award back pay, benefits and all seniority rights. In other words, the hearing officer can restore the grievant to the status quo immediately preceding issuance of the disciplinary action.

In this case, the agency has not shown, by a preponderance of the evidence, that the grievant's behavior was disruptive or that he misused state property. However, the agency has shown that grievant's management style was so overbearing, harassing and blunt as to be totally inappropriate for a professional manager. Based on the weight of the evidence, his behavior was abusive, demeaning and contributed significantly to negative morale in what was already a pressure-cooker situation. It is the hearing officer's judgement that grievant's behavior was an offense sufficiently severe that a repetition would warrant removal from employment – a Group II offense.

One of the major purposes of the Standards of Conduct is to provide employees with an opportunity to correct inappropriate behavior, when correction is possible. Group III discipline is applicable only when the first occurrence is so severe as to require immediate discharge. In this case, grievant's behavior had been encouraged and therefore it would be patently unfair to terminate employment for the first offense. Until grievant is formally advised that his conduct constitutes an offense, he has no opportunity to effect a change in his behavior. Thus, the administration of a Group II offense, coupled with significant counseling and the reining in of grievant's negative approach would give him an opportunity to modify his behavior in a positive way. This would salvage an employee who clearly has extensive knowledge and expertise that would continue to be valuable to the agency.

However, the hearing officer has no authority to take any action with respect to events that occurred subsequent to issuance of the disciplinary action. In the instant case, the hearing officer has concluded that the disciplinary action should be reduced to a Group II Written Notice. As a result the grievant's transfer is voided and he could be reinstated to his former position. Unfortunately, the grievant has taken action that precludes his reinstatement – an action that the hearing officer has no authority to rescind. Specifically, the grievant resigned from employment with the Commonwealth effective March 9, 2001. The agency accepted grievant's resignation and the hearing officer may not direct the agency to change that decision. The agency has the authority, if it so chooses, to allow the grievant to rescind his resignation but the agency is under no obligation to do so. Such a decision is the sole prerogative of agency management.¹⁹

¹⁶ § 5.7 *Grievance Procedure Manual, Ibid.*

¹⁷ § 5.9(a) *Ibid.*

¹⁸ § 5.9(b) *Ibid.*

¹⁹ § 2.1-116.06(B) of the Code of Virginia makes clear that the grievance procedure is not a mechanism to shift management and personnel decisions away from management and states, in pertinent part: "Management reserves the exclusive right to manage the affairs and operations of state government."

DECISION

The disciplinary action of the agency is hereby modified.

The Group III Written Notice, 30-day suspension and transfer to another facility issued on February 7, 2001 are VACATED. The agency shall issue a Group II Written Notice with a ten-day suspension. The disciplinary action shall remain active pursuant to the guidelines in Section VII.B.2 of the Standards of Conduct.

The agency has the sole authority to decide whether to permit grievant to rescind his resignation (if he decides to request a rescission).

APPEAL RIGHTS

As Sections 7.1 through 7.3 of the Grievance Procedure Manual set forth in more detail, this hearing decision is subject to administrative and judicial review. Once the administrative review phase has concluded, the hearing decision becomes final and is subject to judicial review.

Administrative Review – This decision is subject to four types of administrative review, depending upon the nature of the alleged defect of the decision:

1. **A request to reconsider a decision or reopen a hearing** is made to the hearing officer. This request must state the basis for such request; generally, newly discovered evidence or evidence of incorrect legal conclusions is the basis for such a request.
2. **A challenge that the hearing decision is inconsistent with state or agency policy** is made to the Director of the Department of Human Resources Management. This request must cite to a particular mandate in state or agency policy. The Director's authority is limited to ordering the hearing officer to revise the decision to conform it to written policy.
3. **A challenge that the hearing decision does not comply with grievance procedure** is made to the Director of EDR. This request must state the specific requirement of the grievance procedure with which the decision is not in compliance. The Director's authority is limited to ordering the hearing officer to revise the decision so that it complies with the grievance procedure.
4. In grievances arising out of the Department of Mental Health, Mental Retardation and Substance Abuse Services which challenge allegations of patient abuse, **a challenge that a hearing decision is inconsistent with law** may be made to the Director of EDR. The party challenging the hearing decision must cite to the specific error of law in the hearing decision. The Director's authority is limited to ordering the hearing officer to revise the decision so that it is consistent with law.

A party may make more than one type of request for review. All requests for review must be made in writing, and received by the administrative reviewer, within **10 calendar** days of the **date of the original hearing decision**. (Note: the 10-day period, in which the appeal must

occur, begins with the date of **issuance** of the decision, **not receipt** of the decision. However, the date the decision is rendered does not count as one of the 10 days; the day following the issuance of the decision is the first of the 10 days). A copy of each appeal must be provided to the other party.

Section 7/2(d) of the Grievance Procedure Manual provides that a hearing officer's original decision becomes a **final hearing decision**, with no further possibility of an administrative review, when:

1. The 10 calendar day period for filing requests for administrative review has expired and neither party has filed such a request; or,
2. All timely requests for administrative review have been decided and, if ordered by EDR or HRM, the hearing officer has issued a revised decision.

Judicial Review of Final Hearing Decision

Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. The agency shall request and receive prior approval of the Director before filing a notice of appeal.

David J. Latham, Esq., Hearing Officer