

Issues: Group II Written Notice (failure to follow policy) and Termination (due to accumulation); Hearing Date: 06/30/08; Decision Issued: 07/03/08; Agency: VDOT; AHO: Lorin A. Costanzo, Esq.; Case No. 8875; Outcome: No Relief – Agency Upheld in Full.

Commonwealth of Virginia
DEPARTMENT OF TRANSPORTATION

DECISION OF HEARING OFFICER

In the matter of: Case No: 8875

Hearing Date: June 30, 2008

Decision Issued: July 03, 2008

PROCEDURAL HISTORY

Grievant was issued a Group II Written Notice on February 7, 2008 for "Failure to follow established policy and/or procedure." The Written Notice indicated that Grievant had received invoices during September, October, and November of 2007 from various vendors and did not process them for payment or forward them to the proper office for payment in accordance with established policies and procedures.¹

On May 30, 2008, the Department of Employment Dispute Resolution assigned this matter to the Hearing Officer. Hearing was held on June 30, 2008.

APPEARANCES

Grievant (who was also a witness)
Grievant's Attorney
Agency Party Representative (who was also a witness)
Business Administrator
Agency Advocate

ISSUES

Were the Grievant's actions such as to warrant disciplinary actions under the Standards of Conduct? If so, what was the appropriate level of disciplinary action for the conduct at issue?

BURDEN OF PROOF

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against the Grievant was warranted and appropriate under the circumstances.

¹ Agency Exhibit Tab 1, pg. 7 and Written Notice Offense Codes.

A preponderance of the evidence is evidence which shows that what is intended to be proved is more likely than not; evidence that is more convincing than the opposing evidence.²

FINDINGS OF FACT

After reviewing the evidence presented and observing the demeanor of the witness, the Hearing Officer makes the following findings of fact:

Grievant filed a timely appeal from a Group II Written Notice with termination issued on February 7, 2008 for failure to follow instructions and/or policy. The *Nature of Offense and Evidence* indicated "Failure to follow established policy and procedure" and that Grievant had received invoices during September, October, and November of 2007 from various vendors and did not process them for payment or forward them to the proper office for payment in accordance with established policies and procedures.

Following the failure to resolve the matter at the third resolution step, this grievance was qualified for a hearing on May 13, 2008.³

At the time the Group II Written Notice of February 7, 2008 was issued Grievant had two active Group II Written Notices. A Group II Written Notice was issued on 10/21/05 (Inactive Date: 10/21/08) for failure to follow supervisor's instructions.⁴ Additionally, a Group II Written Notice was issued on 10/21/05 (Inactive Date: 10/21/08) for failure to follow policy and procedure.⁵

Until his termination on February 7, 2008, Grievant has been employed by Agency as a District Procurement Manager.⁶ Grievant has been employed by Agency since November of 1995. He was employed with a different Virginia Agency prior to employment with Agency.⁷

Grievant received invoices during September, October, and November of 2007 from various vendors of Agency. Grievant's Written Notice of 2/7/08 presented matters involving five Agency Vendors. Agency indicated that Grievant did not follow policy as to these five vendors.⁸

The *First Agency Vendor* provided an invoice for \$180.00 which was received 11/5/07 and paid on 12/6/07. This Vendor presented another invoice for \$270.00 which was received on 11/5/07 and paid on 12/6/07.⁹

² Department of Employment Dispute Resolution, Grievance Procedure Manual, ("GPM") Section 5.8 and 9.

³ Agency Exhibit Tab 2, Grievance Form A.

⁴ Agency Exhibit Tab 3.

⁵ Agency Exhibit Tab 4.

⁶ Agency Exhibit Tab 2 page 1.

⁷ Testimony.

⁸ Agency Exhibit Tab 1 page 7 – 10.

⁹ Agency Exhibit Tab 12 page 3.

The *Second Agency Vendor* presented an invoice for \$79.50 which was received on 10/7/07 and presented an invoice for \$540.00 received on 11/14/07. On 1/30/08 the ADAB discussed matters with Grievant and the \$79.50 invoice was then paid. It was discovered 2 shelves were missing on the \$540.00 invoiced matter and the Agency determined that payment would be withheld until delivery of the shelves was made.

The *Third Agency Vendor* presented five invoices on 9/27/07. On 1/30/08 originals and one copy of five invoices received on 9/27/07 from the Third Agency Vendor for \$2880.00, \$360.00, \$600.00, \$4725.00, and \$990.00 were found on Grievant's desk. None of these five invoices were logged in and as of 1/30/08 they had not been paid.

The *Fourth Agency Vendor* presented an invoice for \$500.00 which was presented to another Agency employee on 10/26/07. The invoice was transmitted to Grievant who did a Purchase Order but did not send the invoice to anyone. As of 2/5/08 the Fourth Agency Vendor had not been paid.

The *Fifth Agency Vendor* presented an invoice of \$12,034.21 and invoiced a late payment charge of \$240.68 relating to this. Both had not been paid as of 1/29/08. The invoice was faxed to Grievant on 10/2/07 and the receipt of the faxed invoice was logged in. A copy of the same invoice was faxed on 11/29/07. Grievant did not send the invoice to anyone but did enter a requisition this date and a PO in December.

Prior to the issuance of the Group II Written notice of 2/7/08 and prior to the Offense Date(s) set forth thereon Grievant was counseled as to the need for prompt payment of invoices and the need to promptly process or transmit matters.

Grievant was aware Policy provides for payment for goods/services by 30 days after receipt of proper invoice or receipt of goods, whichever is later. Grievant has two active Group II Written Notices dated 10/21/05. One of the two active Written Notices was issued for failure to follow policy and procedures as to invoices from various vendors and for not processing for payment in accordance with policies and procedures. This prior active Group II Written Notice stated thereon, "Policy provides for payment for goods/services by 30 days after receipt of proper invoice or receipt of goods, whichever is later." Grievant signed on 10/21/05 acknowledging receipt of the notice.¹⁰

APPLICABLE LAW AND OPINION

The General Assembly enacted the Virginia Personnel Act, Va. Code Section 2.2-2900 et

¹⁰ Agency Exhibit Tab 4, Written Notice.

seq., establishing the procedures and policies applicable to employment within the Commonwealth of Virginia. 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 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 Section 2.2-3000(A) sets forth the Virginia grievance procedure and provides, in 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 employee disputes which may arise between state agencies and those employees who have access to the procedure under Section 2.2-3001."

To establish procedures on standards of conduct and performance for employees of the Commonwealth of Virginia and pursuant to Section 2.2-1201 of the Code of Virginia, the Department of Human Resources Management promulgated the *Standards of Conduct*, Policy No. 1.60. 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 of Conduct* 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.2. of the Commonwealth of Virginia's Department of Human Resource Management Policies and Procedures Manual, *Standards of Conduct*, Policy No. 1.60, provides that 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.¹¹

Section V.A. of the *Standards of Conduct* provides that the offenses set forth in the *Standards* are not all-inclusive, but are intended as examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense that, in the judgment of agency heads, undermines the effectiveness of agencies' activities may be considered unacceptable and treated in a manner consistent with the provisions of this section.

Section V.B.2. a. of the *Standards of Conduct* state that, "Failure to follow a supervisor's instructions, perform assigned work, or otherwise comply with established written policy" is an example of a Group II Offense.¹²

Procurement Manager:

¹¹ Agency Exhibit Tab 11, DHRM Policies and Procedures Manual, Policy No. 1.60, effective 9/16/93 "Standards of Conduct".

¹² Agency Exhibit Tab 11, DHRM Policies and Procedures Manual, Policy No. 1.60, effective 9/16/93 "Standards of Conduct".

Grievant's Title is Procurement Manager II, and his Work Title is District Procurement Manager. The purpose of the position is to provide procurement and contract administration leadership to the Salem District/SWRO ensuring compliance with the Virginia Public Procurement Act, Federal, State, and Agency laws, and policies and procedures.¹³

The Employee Work Profile (Effective Date: October 25, 2007) provides under *Knowledge, Skills, and Abilities, and Competencies required to successfully perform the work* a comprehensive knowledge of governmental purchasing laws and policies, advanced experience in governmental purchasing and contract administration, and a demonstrated ability to provide extraordinary customer service and promote teamwork. *Goals* indicated include, "Ensure full and proper use of the small purchase card." and "Promote total compliance with all Commonwealth/VDOT policies and procedures". *Measures for Core Responsibilities* include, "Interact with management, staff, and employees on procurement issues" and "responding in a timely manner".¹⁴

Prompt Payment and timeliness:

§2.2-4350 of the Code of Virginia, 1950, as amended, provides that prompt payment of bills by state agencies is required. A state agency that acquires goods or services, or conducts any other type of contractual business with nongovernmental, privately owned enterprises shall promptly pay for the completely delivered goods or services by the required payment date. "Payment Date" is defined in §2.2-4347 of the Code of Virginia, 1950, as amended to mean either (i) the date on which payment is due under the terms of a contract for provision of goods or services; or (ii) if such date has not been established by contract, (a) thirty days after receipt of a proper invoice by the state agency or its agent or , or (b) thirty days after receipt of the goods or services by the state agency , whichever is later.

Volume No. 1—Policies & Procedures, Topic No. 20315, Topic: Prompt Payment—provides guidance to agencies concerning the requirements of Code of Virginia, Section 2.2-4347 through 2.2-4356 and 2.2-5004 (the Prompt Payment Statutes). The Prompt Payment Statutes promotes sound cash management and improved vendor relationships by ensuring timely payments for goods and services. As stated in this Policy, Section 2.2-4347 of the Code of Virginia requires State agencies that acquire goods and services, or conduct business through contractual agreements with nongovernmental and privately-owned businesses, to pay by the "required" payment due date for delivered goods and services. The required payment due date is established by the terms of the contract; or if a contract is not in existence, thirty calendar days after the receipt of a proper invoice, or thirty days after the receipt of goods or services, whichever is later.¹⁵

Agency Procurement and Surplus Property Manual provides at 10.11 **Payment and Invoice Processing:**

¹³ Agency Exhibit Tab 6, page 1.

¹⁴ Agency Exhibit Tab 6 page 1 - 3, Virginia Department of Transportation Employee Work Profile, HR-67-1.

¹⁵ Agency Exhibit Tab 8; Grievant's Exhibit Tab 3.

a. **Invoice Processing.** Invoice processing is to be performed in accordance with the rules and regulations set forth by the Department of Accounts. To maintain good vendor relationships and a competitive environment, it is imperative that invoices be processed promptly and in accordance with the contract terms. The *Code of Virginia*, Section §2.2-4350A, requires agency's and institutions to pay for the completely delivered goods or services by the required payment date. If no payment date has been established by contract, then payment is due 30 days after receipt of a proper invoice by the agency or its agent responsible under the contract for approval of such invoices for the amount of payment due, or 30 days after the receipt of the goods or services, whichever is later (*Code of Virginia*, §2.2-4347).¹⁶

Accounts Payable Policy Overview states that, "The Prompt Payment Act (Article 2.1, Code of Virginia, Sections 11.62.1 through 11.62.11) requires payment for goods and services:

- The date on which payment is due under the terms of the contract
or
- If there is no contract, 30 days after receipt of satisfactory invoice or receipt (indicated by date stamp or written note) of goods/services-whichever is later.

Operational Guidelines for Prompt Pay state that each location (District, Division, Residency, Area Headquarters) is responsible for accurate and timely payment of goods and/or services.¹⁷

The Agency has concerns of payment of invoices in a prompt manner. Grievant was aware of the policy requirements for timely payment. In a written letter to Grievant dated October 17, 2005 Grievant was informed by District Business Administrator ("DBA") in writing that over several months it has been brought to the DBA's attention that there were invoices that had been sent to Grievant that had not been process for payment in a timely manner. The letter of October 17, 2005, also referenced that one of the items the DBA had previously mentioned in her first staff meeting as DBA with her direct reports on May 16, 2005 was the importance of processing invoices timely in order to comply with the Prompt Pay Act and policy and procedures as well as to provide good customer service. This policy was again discussed in unit staff meetings on 8/1/05 and 8/15/05.¹⁸

Grievant has two active Group II Written Notices dated 10/21/05. One of which was issued for failure to follow policy and procedures as to invoices and not processing for payment in accordance with policies and procedures. This Written Notice stated, "Policy provides for payment for goods/services by 30 days after receipt of proper invoice or receipt of goods, whichever is later." Grievant signed on 10/21/05 acknowledging receipt of the notice.

Grievant was aware of the Agency's policy of timeliness as to invoices, processing of invoices, and related matters. He was aware of the Agency's position and he was instructed to and agreed to address compliance and timeliness in handling matters. On 10/21/05 Grievant signed a Notice of Improvement Needed/Substandard Performance Form detailing an

¹⁶ Agency Exhibit Tab 9 page 7; Grievant Exhibit Tab 3(a).

¹⁷ Agency Exhibit Tab 10 page 1 & 2, Accounts Payable Policy Overview.

¹⁸ Agency Exhibit Tab 4 page 3. Letter of October 17, 2005.

improvement plan for Grievant with the following items:

- The Procurement Office is to only pay for purchases/services related specifically for their section, and only then for those that can be paid by the small purchasing credit card (SPCC). Exception to this would be the VITA purchases that are out of scope.
- Invoices for the procurement office and VITA purchases that cannot be paid by the SPCC will be sent to Accounting for Processing Immediately upon receipt.
- Invoices for all other locations should be sent to the appropriate location for processing immediately upon receipt. It will be necessary that appropriate addresses are available when the purchase is made so that the invoice can be sent to the correct address and not to the Procurement office.
- ANY invoice received in the Procurement Office should be date stamped when received and logged into the Procurement log book
- Invoices should be processed in accordance with policies and procedures.¹⁹

The E-mail of 4/3/06 from Agency to Grievant again indicated strong Agency concerns over holding of invoices. The E-mail references past discussion on prompt payment with Grievant and the issue of holding invoices. This E-Mail, which Grievant confirmed receipt of, went on to confirm that the Agency will not tolerate delay in processing or submitting to the proper person.²⁰

In August of 2007, the Agency expressed concern over Grievant and his office ceasing to maintain a log of when the invoices come in and not date stamping the invoices when they come in. Concern was directed that these practices were discontinued after having being instructed to maintain the log and after being instructed to date stamp invoices upon receipt regardless if the invoices have arrived at other offices first. Reference was also made to past problems with invoices.²¹

The Agency had strong concerns over Grievant not complying with previous instructions, policies, and procedures in not processing with his small purchasing charge card, not issuing purchase orders timely, and/or not forwarding invoices in a timely manner. A prior Group II Written Notice was given Grievant in October of 2005 for similar matters and this is currently “active”. Agency instructions and an improvement plan addressed to Grievant the need to timely handle matters and process or forward matters for processing. He has been instructed on policy and procedures as to this both orally and in writing.²²

The district procurement office interacts within all sections within the financial management section. They provide expertise in the purchase of goods and services and contract administration and issue certain purchases orders and contracts. Grievant has certain responsibility including the responsibility to insure that an invoice is sent to the proper individual to ensure the invoice is paid. He is not merely to hold the invoice on his desk. There is also an obligation to make prompt resolution on invoice issues. Testimony indicated that when

¹⁹ Agency Exhibit Tab 2, page 8, Agency’s Attachment I to Grievance Form A.

²⁰ Agency Exhibit Tab 17, page 1.

²¹ Agency Exhibit Tab 17, page 3.

²² Testimony and Agency Exhibit Tab 17.

Grievant had invoices on his desk he was suppose to resolve any problems or issues concerning those invoices that may arise. He was also to maintain documentation of those efforts.

Grievant indicated he did not and would not do anything to deliberately impact the processing of a bill. He expressed that he did have health issues and was out of work from approximately the first week of December of 2006 and returned in March 2007. It is noted that the issues presented in the current Written Notice involve matters occurring in September, October, and November of 2007. He expressed concern over a workload increase with the start of the Regional Operation and staff working under him dropped from 2 to 1. Grievant's concerns that his workload dramatically increased were not supported by Business Administrator (Business Administrator - SW Regional Operations) testimony.

VDOT Interim Evaluation Form (meeting date 7/3/07) noted that Grievant needs to respond to users in a more timely fashion and needs to better organize assignments to avoid delays that have occurred in providing assistance or processing of purchase orders, etc.²³

It is also noted that Grievant indicated he has had conflict with his boss.

Five Agency Vendors:

Instances where Grievant did not follow policy were raised concerning Five Agency Vendors and matters presented to Grievant by these vendors or concerning these vendors.

The **First Agency Vendor** provided an invoice for \$180.00 which was received 11/5/07 and paid on 12/6/07. This Vendor presented another invoice for \$270.00 which was received on 11/5/07 and paid on 12/6/07.²⁴

The **Second Agency Vendor** presented an invoice for \$79.50 on 10/7/07 and an invoice for \$540.00 received 1/14/07. On 1/29/08 the Assistant District Administrator-Business ("ADAB") was informed that these 2 invoices were not paid. Grievant indicated he did not have invoices on his desk however 2 original invoices were found. Grievant did indicate he tried to call the Second Agency Vendor but never got a call back. On 1/30/08 the ADAB discussed matters with Grievant; the \$79.50 invoice was paid. ADAB had Grievant pay with the Credit Card.

Two shelves were missing on the \$540.00 invoice. It was determined that payment would be withheld until delivery of the shelves was made. The Agency expressed concern that Grievant had not done anything with this invoice nor had he sought resolution on the missing shelves he was aware of.²⁵

The **Third Agency Vendor** submitted five invoices on 9/27/07 for goods received prior to

²³ Grievant Exhibit Tab 5.

²⁴ Agency Exhibit Tab 12.

²⁵ Agency Exhibit Tab 13 and Testimony.

that date which were not promptly paid. On 1/30/08 the ADAB found originals and one copy of five invoices which were received on 9/27/07 from the Third Agency Vendor for payment in the amounts of:

\$2880.00
\$360.00
\$600.00,
\$4725.00, and
\$990.00

None of these five invoices were found to be logged in. As of 1/30/08 none of these 5 invoices had been paid.²⁶

The ***Fourth Agency Vendor*** had presented an invoice to another employee for \$500.00 for services received in mid September of 2007. The invoice was presented on 10/26/07. The invoice was sent to Grievant. Grievant did a purchase order on 11/6/07 but did not send the invoice to anyone. As of 2/5/08 the Fourth Agency Vendor had not been paid.²⁷

The ***Fifth Agency Vendor*** presented an invoice for \$12,034.21 (faxed on 10/2/2007) and a late payment charge of \$240.68 was subsequently invoiced for non payment of this invoice. Neither was paid as of 1/29/08 when they were brought to the attention of the Assistant District Administrator-Business (“ADAB”).

Grievant told the ADAB this was the invoice he had discussed with her earlier, that an employee wanted him to do a purchase order on this, and she wanted him to get an explanation for. This invoice was faxed to Grievant on 10/2/07 and receipt of the faxed invoice from the Fifth Agency Vendor was logged in. On 1/30/08 ADAB also found a faxed copy of the invoice which was faxed from the *Third Agency Vendor* on 11/29/07.

In October of 2007 Grievant indicated to an Agency employee that he would do a requisition as to this invoice. On 11/29/07 Grievant entered the requisition. The requisition was approved on 12/7/07 and on 12/10/07 Grievant started the purchase order but it was not finished at that time. Grievant did not forward the invoice to anyone at that time. On 1/02/08 Grievant completed the purchase order. On 1/7/07 Grievant was asked by an employee if the payment was made if not what is the next step. On 1/25/08 inquiry was by employee to the SW Region Office as to attempts to get the invoice paid. As of 1/29/08 payment was not made to the Fifth Agency Vendor on this invoice. Grievant’s actions were not timely and unnecessarily delayed prompt payment of this invoice.²⁸

Timely payment of invoices is a final step to the procurement process. The Agency informed Grievant on a number of occasions that if he received invoices that he considered it not to be his responsibility to pay that he should immediately distribute the invoices to the proper person to pay. He had been told that if it was his responsibility to pay then he should process

²⁶ Agency Exhibit Tab 14 and Testimony.

²⁷ Agency Exhibit Tab 15.

²⁸ Agency Exhibit Tab 16 and Testimony.

with his small purchase credit card (VDOT MasterCard) within the required timeframe. He was also informed that if he did not distribute the invoices for processing then he was considered responsible for making the payment or would be accountable for the consequences.²⁹

Mitigation:

Policy provides for reduction of discipline if there are mitigating circumstances such as (1) conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or (2) and employees long service or otherwise satisfactory work performance.

The agency's decision was within the limits of reasonableness. Under the *Rules for Conducting Grievance Hearings*, Section VI, B, 1, a hearing officer must give deference to the agency's consideration and assessment of any mitigating and aggravating circumstances. Thus, a hearing officer may mitigate the agency's discipline only if, under the record evidence, the agency's discipline exceeds the limits of reasonableness.

Grievant has been with the Agency since 11/1/95 as a District Procurement Manager. As a District Procurement Manager the Agency had expectations that Grievant would make payment for invoices or get invoices paid in a timely manner in accordance with established policy. In a number of instances payment was not made in accordance with policy.³⁰ The Agency has discussed with Grievant the issue of holding invoices on several occasions in the past. The Agency has tendered Grievant E-mail indicating concern over the issue of holding invoices and a prior active Written Notice addressed similar issues.

Issues as to timely actions and invoices and/or timely actions were previously addressed by Agency in a prior Group II Written Notice. At that time, two Group II Written Notices were issued but the Agency decided not to terminate. These two Group II Written Notices are still active.

For the reasons stated above, the Agency has proven by a preponderance of the evidence that the disciplinary action of issuing a Group II Written Notice and termination was warranted and appropriate under the circumstances.

DECISION

For the reasons stated herein, the Agency's issuance to the Grievant on February 7, 2008 of a Group II Written Notice with termination is hereby **UPHELD**.

APPEAL RIGHTS

You may file an Administrative review request within **15 calendar days** from the date the decision was issued.

²⁹ Agency Exhibit Tab 2, page 7, Agency's Attachment I to Grievance Form A.

³⁰ Agency Exhibit Tab 1.

As the Grievance Procedure Manual sets 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 three 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 are 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. Requests should be sent to: Director of the Department of Human Resources Management, 101 N. 14th Street, 12th Floor, Richmond, Virginia 23219.

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. Requests should be sent to: Director, Department of Employment Dispute Resolution, One Capitol Square, 830 East Main, Suite 400, Richmond, VA 23219.

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 **15 calendar days** of the date of the original hearing decision. (Note: the 15-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 15 day following the issuance of the decision is the first of the 15 days.) A copy of each appeal must be provided to the other party.

A hearing officer's original decision becomes a **final hearing decision**, with no further possibility of an administrative review, when:

1. The 15 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 DHRM, 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. You must give a copy of your notice of appeal the Director of the Department of Employment Dispute Resolution.

Lorin A. Costanzo, Hearing Officer