

Issue: Group III Written Notice with Termination (failure to follow policy and unauthorized removal of State property; Hearing Date: 12/19/13; Decision Issued: 01/08/14; Agency: VCCS; AHO: Ternon Galloway Lee, Esq.; Case No. 10219; Outcome: Full Relief.

DECISION OF HEARING OFFICER

In the matter of

Case Number: 10219

Hearing Date: December 19, 2013

Decision Issued: January 8, 2014

SUMMARY OF DECISION

The Agency had found Grievant engaged in misconduct by failing to follow instructions and/or policy and by using state property without authority. The Agency then issued Grievant a Group III Written Notice with termination. The Hearing Officer found the Agency is unable demonstrate Grievant engaged in the alleged misconduct. Thus, she rescinded the disciplined.

HISTORY

On October 22, 2013, the Agency issued Grievant a Group III Written Notice with termination for failure to follow policy and the unauthorized use of state property. On or about the same date, Grievant timely filed his grievance to challenge the Agency's action. On November 15, 2013, the Office of Employment Dispute Resolution ("EDR") assigned the undersigned as the hearing officer to this appeal. A pre-hearing conference ("PHC") was held on November 26, 2013.¹ Subsequently a scheduling order was issued setting the hearing for December 19, 2013.²

On the date of the hearing and prior to commencing it, the parties were given an opportunity to present matters of concern to the Hearing Officer. At this time, the Grievant's Advocate objected to Agency Exhibit 3 stating it was not relevant. After hearing arguments, the Hearing Officer overruled the objection. Next, the parties requested that the Hearing Officer inform the witnesses that they could not be retaliated against by the Agency for providing testimony during the hearing. In addition to other instructions provided, the Hearing Officer informed the witnesses that the Agency is prohibited from such action. Then the parties stipulated to certain facts that are set forth below in the "Findings of Facts" section.

Moreover, the Hearing Officer admitted Agency Exhibits 1 through 6; Grievant's Exhibits 1 through 16, including Grievant's Prehearing Report; and Hearing Officer Exhibits 1 through 6. With the exception of the objection mentioned above, there was no objections to the exhibits' admission. Further, both parties were given the opportunity to make opening and closing statements and to call witnesses. Each party was provided the opportunity to cross examine any witness presented by the opposing party.

During the proceeding, an advocate represented each party.

¹ This was the first date that the parties were available.

² The parties agreed to this date.

APPEARANCES

Advocate for Agency
Witnesses for the Agency (3 witnesses, including the Agency's Advocate)
Grievant
Witnesses for Grievant (5 witnesses, including Grievant)

ISSUE

Was the written notice warranted and appropriate under the circumstances?

BURDEN OF PROOF

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against Grievant was warranted and appropriate under the circumstances. Grievance Procedure Manual ("GPM") §5.8(2). A preponderance of the evidence is evidence which shows that what is sought to be proved is more probable than not. GPM §9.

FINDINGS OF FACT

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

1. The Agency is a community college with several campuses.³ Grievant was hired on February 1, 1983 as an air-conditioning and refrigeration supervisor by the Agency. He initially worked at Agency Campus 1. On or about 1995, Grievant was promoted and transferred to Agency Campus 2 as the manager of the Department of Facilities Management. He worked in that position for 18 years until his termination on October 22, 2013. Grievant was employed for a little over 30 years by the Agency. (Stipulated Facts 1 and 2 by the parties; G Prehearing Report; Testimony of Grievant).
2. As previously noted, Grievant was employed in a supervisory role his entire period of employment at the Agency. (Stipulated Fact 2 by the parties; G Prehearing Report; Testimony of Grievant).
3. Grievant has no prior formal disciplinary actions on his record. (Stipulated Fact 3 by the parties; G Prehearing Report).

EVENTS LEADING TO DISCIPLINE AND THE INVESTIGATION

4. On August 14, 2013, the Agency received an anonymous telephone call. The caller informed the Agency that he/she had observed one of the Agency's pickup trucks at the Recycling Place. The Director of the Department of Facilities Management then confirmed with the Recycling Place that it had received scrap in exchange for cash from an Agency employee.

³ For purposes of this decision, the Hearing Officer identifies Campuses 1 and 2.

Upon visiting the Recycling Place, the Director of Facilities Management determined that on August 14, 2013, one of Grievant's subordinates, his foreman, had sold the scrap metal/materials for \$162.45. Further, the Agency learned that the foreman held an account with the Recycling Place for the purpose of exchanging scrapped materials for cash. (Testimony of Director of Facilities Management; A Exh. 1, p. 9; Stipulated Fact 8 by the parties).

On August 14, 2013, Grievant was on annual leave. (Stipulated Fact 9 by the parties).

5. On August 27, 2013, Agency management launched an internal investigation. In consequence, management conducted interviews with employees of the Department of Facilities Management. Most, if not all, of Grievant's staff was interviewed to include Grievant's foreman. Management also interviewed Grievant at least twice. (Testimonies of Director of Human Resources and Director of Safety and Security; A Exh. 1, p. 5; Stipulated Fact 5 by the parties).

6. The investigation revealed that from 2010 until at least sometime in 2012, Grievant had authorized his foreman to be in charge of a petty cash fund that was obtained through employees in the Department of Facilities Management removing scrap materials from the Agency, taking it to the Recycling Place, and exchanging it for cash. During this time period, at least \$4,800.05 had been obtained by the scrapping activity at the Agency. (A Exh. 1).

7. The funds from the sales were placed in a petty cash fund held by Grievant's foreman. The employees were allowed to use the funds for luncheons and meals for the employees of that department. (Testimonies of Administrative Assistant, Grievant, Director of Facilities Management, Grievant Witnesses 1, 2, and 3). At least one loan of \$1,600.00 was reported to have been made from the funds. (A Exh. 1, p. 10). For the most part, receipts were not retained showing the use of the funds in the petty cash. Grievant did not exercise oversight concerning the management of the petty cash fund as he delegated that task to his foreman. (Testimony of Grievant; A Exh. 1).

8. About December 2012, Grievant received instructions from his immediate supervisor, the Director of the Department of Facilities Management, that scrap materials were not to be removed from the Agency and exchanged for cash.⁴ Scrap materials were to be sent to the Agency's Warehouse. The next day or so, Grievant notified his staff of the instructions he had received from his supervisor. (A Exh. 1, p. 7: Testimony of Grievant).

9. Grievant's foreman disregarded the directive from his boss and continued the practice of exchanging scrapped materials from the Agency for cash at the Recycling Place. (A Exh. 1, p. 7; Testimony of Grievant).

10. During the investigation launched because of the August 14, 2014 revelation, management considered whether the following had occurred:

⁴ The Director of Facilities Management contends that a similar instruction was given sometime in 2011. No documentation was provided to support this assertion and the Hearing Officer finds insufficient evidence to support the assertion.

- i. unauthorized disposal of property;
- ii. unauthorized establishment of an account;
- iii. unauthorized expenditures;
- iv. unauthorized personal use of funds; and
- v. unauthorized petty cash.

(Testimony of Director of Safety and Security).

11. Also, during the investigation, the Agency received signed witness statements from Grievant's subordinates attesting that they attended a number of employee cookouts/parties over the last several years catered by local restaurants. (Stipulated Fact 7 by the parties).

12. During the course of the investigation, management discovered Policy 4201. It then determined Grievant violated it in that

- (i). Grievant was not authorized to collect funds;
- (ii). Grievant failed to account for the funds collected; and
- (iii). The Department of Facilities Management was not authorized to sell scrap and Grievant should have taken the scrapped materials to the Agency's warehouse surplus department.

(Testimony of Director of Facilities Management; A Exh. 1; G Exh. 14).

13. The investigation was closed on September 13, 2013. Thereafter, Grievant's immediate supervisor, the Director of Facilities Management, issued him a Group III Written Notice with termination on October 22, 2013. The Director of Human Resources recommended the discipline. The written notice of discipline noted Grievant failed to follow instructions and/or policy and Grievant engaged in the unauthorized use of State Property. (A Exh. 1, p. 3; Stipulated Facts 4 and 6 by the parties).

14. The Group Notice specifically described the offenses as follows:

Campus Facilities Manager, [Grievant] had direct supervision over the knowledge of the [location] Campus Facilities Maintenance Department's scrapping of state property in exchange for cash to establish and maintain an unauthorized petty cash fund ("Fund"). The scrapping transactions were conducted by [Grievant's] direct-report subordinate who manage the Fund with his knowledge and consent. Available documentation indicates that at least \$4800.05 passed through the Fund between April 2010 and August 2013, of which only \$262.45 can be accounted for. As supervisor, [Grievant] did not maintain or require accountability for the Fund to be maintained - only two records of at least 13 scrapping transactions and no receipts for the expenditures from the Fund were maintained by [Grievant] or his subordinate. [Grievant] authorized personal loans to department staff from the Fund with no records that the loans were repaid in full. And, in allowing the removal and sell of scrap materials, [Grievant] disobeyed direction from his supervisor. And, in allowing the receipt of cash for the scrapping and maintenance of

the Fund, he violated [Agency] Policy 4201 (Tuition, Fees, and Other Receipts) in that his department is not authorized to receive funds on behalf of the college and the funds received were neither properly recorded in a college accounting system nor deposited in an appropriate bank account.

(A Exh. 1; G Exh. 1).

15. In describing the offenses, the disciplinary notice also referenced the investigative report and attached it to the written notice. (A Exh. 1; G Exh. 1).

POLICIES

a. Policy 4201

16. The Agency contends Grievant violated Policy 4201 various times through August 15, 2013. (Testimony of Director of Human Resources; A Exh. 1, p. 3).

17. The written text of Policy 4201 indicates it became effective January 20, 2011. Under Policy 4201, the Agency is required to properly account for, report, and manage deposits of revenue and other receipts as approved by the Virginia Department of Treasury. (A Exh. 2, pp. 1, 5; G Exh. 2, pp. 5).

18. Policy 4201 also prohibits a department of the Agency from collecting, depositing, and recording payments if its Vice-President for Finance has not authorized that department to receive funds on behalf of the Agency. (A Exh. 2, p. 1).

19. In addition, Policy 4201 mandates that “[a]ll receipts of revenue and other funds of the Commonwealth shall be recorded according to state revenue classification codes and deposited in a bank approved by the Virginia Department of Treasury to the credit of the Treasurer of Virginia.” (A Exh. 2, p. 1).

20. Under Policy 4201, non-state funds received must be recorded in the accounting system to the appropriate revenue classification code and deposited to the Agency’s local bank account. (A Exh. 2, pp. 1-2).

21. Policy 4201 requires that revenue/funds received be processed on the day received, but not later than the next banking day. (A Exh. 2, p. 2).

22. The purpose of Policy 4201 is to assure reliable and complete records, compliance with other applicable procedures, and the safeguarding of revenue. (A Exh. 2, p. 1).

23. The Department of Facilities Management was not authorized to receive revenue or funds. (Testimony of Director of Facilities Management).

24. Grievant’s immediate supervisor, the Director of Facilities Management, became aware of Policy 4201 during an investigation that began on August 27, 2013, regarding staff of the

Department of Facilities Management removing scrap materials for cash. He understood the spirit of the policy, but not how to implement all of its requirements. (Testimony of Director of Facilities Management).

25. Policy 4201 was initially reviewed with staff of the Department of Facilities Management (to include Grievant and his subordinates) in a staff meeting on September 9, 2013. (Testimony of Director of Facilities Management).

b. September 9, 2013 Policy

26. On or about September 9, 2013, the Agency established a written policy prohibiting the taking of scrap materials from the Agency and exchanging it for cash. This policy reads as follows:

Waste material, scrap metal, and surplus items are not free for the taking. If it has value to you then it has value to the state and either goes to materials management at the surplus warehouse or the trash. Everything and anything that is put in the trash, stays in the trash.

(G Exh. 14).

In a meeting held with staff of the Department of Facilities Management on September 9, 2013, the above-referenced written policy was reviewed and staff was required to sign a statement acknowledging the policy. Also, Policy 4201 was reviewed with staff in this meeting. (Testimony of Director of Facilities Management; G Exh. 14).

27. Prior to September 9, 2013, there was no written policy that prohibited the removal of scrap material from the Agency and selling it. (G Exh. 14).

c. Unwritten Policy from 1998 to on or about 2012

28. From 1997/1998 to about December 2012, the Agency permitted employees in the Department of Facilities Management to take scrap material from the Agency and sell it to a Recycling Place for cash. The funds from the sales were held in a petty cash fund under the control of Grievant's subordinate, his foreman. The employees were allowed to use the funds for luncheons and meals for the employees of that department in an effort to show appreciation for the employees and to boost their moral. (Testimonies of Grievant Witnesses 1, 2, and 3; Testimonies of Administrative Assistant, Grievant, and Director of Facilities Management). At least one loan of \$1,600.00 was reported to have been made from the funds. (A Exh. 1, p. 10). The evidence is not sufficient to establish Grievant authorized any loans from the fund.

29. The scrap materials consisted of motors, aluminum and other materials considered unusable. (G Exhibit binder –Chronology of Events; Testimonies of Grievant's Witnesses 1,2, and 3; Testimony of Grievant).

OTHER

30. Grievant's immediate supervisor, the Director of Facilities Management had held this position for about five years as of August 14, 2013. Grievant and his immediate supervisor had experienced some disagreements over work related issues. (A Exh. 1, p. 3; Testimony of Director of Facilities Management).

31. The practice of scrapping metal for cash had gone on for about 15 years before management provided any oral directive prohibiting the practice; and for about 16 years before any written directive was issued barring it. (Testimonies of Director of Safety and Security and Grievant). Until the oral directive was issued, staff in the Department of Facilities Management had a reasonable expectation that the scrapped materials were abandoned and free for taking. (Testimonies of Grievant and Grievant's Witnesses 1, 2, and 3).

32. Grievant's immediate supervisor did eat submarine sandwiches/pizza at several luncheons for the employees in the Department of Facilities Management. Funds from the sale of scrap material from the college was used to pay for the luncheons. Grievant's supervisor was informed on at least one of those occasions that the luncheons were paid for from the scrapping funds. When this information was shared with Grievant's boss, no immediate directive followed for scrapping to cease. (Testimony of Grievant).

33. An administrative assistant who worked in the Department of Facilities Management informed Grievant's supervisor some time in 2011 that scrapping for cash was occurring. She also reported that some employees involved in the practice were disgruntled as they believed they were not receiving their share of the cash received. (Testimony of Grievant; Testimony of Administrative Assistant).

33. Grievant's immediate supervisor reasonably should have known that scrapping was being practiced during at least some of the period for which management asserts Grievant violated Policy 4201. (Testimony of Grievant; Testimony of Administrative Assistant; G Exh. 8).

34. Grievant's immediate supervisor was not disciplined for his Department violating policy 4201 from 2010 to August 14, 2013. (Testimony of Director of Facilities Management).

35. Grievant trusted his foreman. When Grievant learned during the course of the investigation that his foreman had removed scrapped materials and exchanged them for funds at the Recycling Place after he had instructed his staff the policy was prohibited, Grievant became upset that the foreman disobeyed his instructions. (Testimonies of Grievant and Grievant Witness 3).

36. Grievant used his personal money to loan money to some of his employees. One such loan paid for an employee's plane ticket so she could attend her father's funeral. (Testimonies of Grievant and Administrative Assistant).

DETERMINATIONS AND OPINION

The General Assembly enacted the *Virginia Personnel Act*, VA. Code §2.2-2900 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/her 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).

Va. Code § 2.2-3000 (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 resolution of employment disputes which may arise between state agencies and those employees who have access to the procedure under § 2.2-3001.

In disciplinary actions, the agency must show by a preponderance of evidence that the disciplinary action was warranted and appropriate under the circumstances.⁵

To establish procedures on Standards of Conduct and Performances for employees of the Commonwealth of Virginia and pursuant to § 2.2-1201 of the *Code of Virginia*, the Department of Human Resource Management promulgated 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 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.

Under the Standards of Conduct, Group III offenses are the most serious acts and behavior which normally warrant removal on a first occurrence. When circumstances warrant it, management may mitigate discipline if in its judgment it is proper to do so. *See* Standards of Conduct Policy 1.60(B)(2)(c).

On October 22, 2013, management issued Grievant a Group III Written Notice with termination for the reasons previously noted here. Accordingly, the Hearing Officer examines the evidence to determine if the Agency has met its burden.

I. Analysis of Issue before the Hearing Officer

Issue: Whether the discipline was warranted and appropriate under the circumstances?

⁵ GPM §5.8

A. Did the employee engage in the behavior described in the Group III Written Notice and did that behavior constitute misconduct?

1. Did the Grievant Fail to Follow His Supervisor's Instruction?

First, the Agency contends that Grievant failed to follow his supervisor's directive. Specifically, the Agency asserts that Grievant allowed scrap materials to be taken from the college to the Recycling Place and exchanged for cash after Grievant's immediate supervisor instructed him to stop the practice.

A review of the evidence shows that sometime in late 2012, Grievant received a directive from his supervisor to halt the practice of allowing scrap materials to be taken to the Recycling Place and exchanged for cash. Grievant testified that he immediately informed his subordinates of this changed policy. Also, testimony from several of Grievant's subordinates confirmed Grievant provided such a timely instruction. Grievant further testified that after notifying his staff of the changed policy, to the best of his knowledge, no one continued to engage in scrapping for cash. In contrast to Grievant's belief, the evidence shows that an anonymous caller informed management that on August 14, 2013, someone with a State vehicle took scrap material to the Recycling Place. The report from the caller was confirmed during the Agency's subsequent investigation revealing Grievant's foreman engaged in the prohibitive practice on August 14, 2013, as well as several other times in 2013. Testimony from Grievant's subordinates indicate Grievant became upset when he learned his foreman had disobeyed his instruction.

Having given careful consideration to the evidence, the Hearing Officer is not persuaded that Grievant disobeyed his supervisor's directive to stop the practice of removing scrap material and exchanging it for cash. That said, the Hearing Officer is aware of the foreman's reported statement that "Grievant did not make him (the foreman) stop." The Hearing Officer finds the foreman's statement self-serving and not supported by substantial evidence of record. In addition, the Hearing Officer had an opportunity to observe the demeanor of the witnesses and found Grievant's testimony and that of his subordinates credible regarding (i) timely informing staff of the new directive and (ii) having no knowledge of noncompliance with it. In fact, the evidence shows that on August 14, 2013, the day the foreman was caught selling scrap materials for cash, Grievant was absent from work and therefore could not reasonably be expected to know of the foreman's conduct. Further, the evidence was undisputed that Grievant trusted his foreman and became upset upon learning of the foreman's noncompliance with the new policy. The Hearing Officer finds it is reasonable to infer that this reaction supports Grievant's assertion that he complied with his boss' instruction and did not sanction the foreman's conduct.

Thus, the Hearing Officer finds the Agency has not met its burden and shown Grievant failed to follow his supervisor's directive.

2. Did Grievant Fail to Follow Policy 4201?

Moreover, the Agency contends Grievant failed to follow the mandates of Policy 4201 on

various dates through August 15, 2013. The Agency asserts the department for which Grievant worked was not authorized to receive funds on behalf of the college. Further it argues that in the event any funds were received by Grievant or his staff, those funds should have been recorded in a college accounting system and deposited in an appropriate bank account.

The relevant requirements of Policy 4201 are as set forth in “Findings of Fact” ## 17 to 22.

The Hearing Officer finds that the Agency is unable to meet its burden and show Grievant violated Policy 4201 for several reasons.

First, the evidence shows that during the time Grievant was supposed to have violated Policy 4201, neither he nor his supervisor knew of it. This fact is established by evidence of Grievant’s boss first learning of Policy 4201 after August 14, 2013, and initially disseminating/reviewing the policy with his staff on or about September 9, 2013. That said, the Hearing Officer is mindful of the policy existence in form since January 20, 2011. But she finds this evidence alone is insufficient to show that management implemented Policy 4201 from its 2011 inception. As it is reasonable to infer that if Grievant’s immediate supervisor of practically five years was unaware of Policy 4201, Grievant could not be expected to know of it either. Without knowledge of this rule during the time period the Agency contends Grievant violated it, the Hearing Officer finds it would be illogical and fundamentally unjust to find Grievant disobeyed it.

Moreover, other evidence corroborates Policy 4201 non-implementation in the Department of Facilities Management during Grievant’s alleged offense dates. This is shown by (i) the department’s longstanding practice of permitting scrapping until late 2012; (ii) Grievant’s immediate supervisor knowing of the practice since at least 2011/2012; and (iii) even with this information, management failing to enforce the requirements of Policy 4201 – not accepting funds, receipting, accounting, and/or depositing of funds.

B. Was the discipline consistent with policy and law?

Grievant should not be disciplined for misconduct that the Agency is unable to substantiate. Such is the case here for reasons already mentioned. Thus, the Group III Written Notice with termination is inconsistent with policy and law.

Moreover, of particular note, management did not discipline Grievant’s supervisor even though the evidence demonstrates that he should have reasonably known of the scrapping practice during at least some of the time for which Grievant is alleged to have violated Policy 4201. During that period the evidence shows that Grievant’s boss failed to follow the mandates of Policy 4201 or require such following by Grievant.

C. Affirmation of Decision

The Hearing Officer affirms her finding that the Agency has failed to meet its burden and show Grievant engaged in the alleged misconduct. Thus, the discipline action against Grievant

cannot be upheld.

II. Attorney Fees

The Virginia General Assembly Virginia Code § 2.2 – 3005.1 (A) providing, “[i]n grievances challenging discharge, if the hearing officer finds that the employee has substantially prevailed on the merits of the grievance, the employee shall be entitled to recover unreasonable attorney’s fees, unless special circumstances would make an award unjust.” Grievant has substantially prevailed on the merits of the grievance because he is to be reinstated as set forth below in the decision section. There are no special circumstances making an award of attorney’s fees unjust. Accordingly Grievant's attorney is advised to submit an attorney's fee petition to the Hearing Officer within 15 days of this decision. The petition should be in accordance with the *Grievance Procedural Manual* §7.2(e).

III. Decision and Order

The Hearing Officer has considered all the evidence of record whether specifically mentioned or not. Having done so, for the reasons noted here, the Agency’s issuance to Grievant of a Group III Written Notice with termination is rescinded. The Agency is ordered to take the following action:

1. rescind the Group III Written Notice with termination;
2. pay full back pay for the period Grievant has been separated from his job; however, back pay is to be offset by any interim earnings;
3. appropriately restore other benefits and seniority;
4. reinstate Grievant to his former position or, if occupied, to an equivalent position.

APPEAL RIGHTS

You may file an **administrative review** request within **15 calendar days** from the date the decision was issued, if any of the following apply:

1. If you believe the hearing decision is inconsistent with state policy or agency policy, you may request the Director of the Department of Human Resource Management to review the decision. You must state the specific policy and explain why you believe the decision is inconsistent with that policy. Please address your request to:

Director
Departmental of Human Resource Management
101 N. 14th St., 12th Floor
Richmond, VA 23219

or, send by fax to (804) 371 – 7401, or e-mail.

2. If you believe that the hearing decision does not comply with the grievance procedure or if you have new evidence that could not have been discovered before the hearing, you may request that EDR review the decision. You must state the specific portion of the grievance procedure with which you believe the decision does not comply. Please address your request to:

Office of Employment Dispute Resolution
Department of Human Resource Management
101 N. 14th St., 12th Floor
Richmond, VA 23219

or, send by e-mail to EDR@dhrm.virginia.gov. or by fax to (804) 786-1606.

You may request more than one type of review. Your request must be in writing and must be **received** by the reviewer within 15 calendar days of the date the decision was issued. You must provide a copy of all of your appeals to the other party, EDR, and the hearing officer. The hearing officer's **decision becomes final** when the 15 calendar day period has expired, or when requests for administrative review have been decided.

You may request a judicial review if you believe the decision is contradictory to law. You must file a notice of appeal with the clerk of the Circuit Court in the jurisdiction in which the grievance arose within **30 days** of the date when the decision becomes final.⁶

Entered this 8th day of January, 2014.

Ternon Galloway Lee, Hearing Officer
cc: Agency Advocate/Agency Representative
Grievant's Advocate/Grievant
EDR

⁶ Agencies must request and receive prior approval from EDR before filing a notice of appeal.