

Issue: Reconsidered Administrative Review Ruling of Hearing Officer's Decision in Case No. 11225; Ruling Date: December 6, 2018; Ruling No. 2019-4808; Agency: Virginia Alcoholic Beverage Control Authority; Outcome: Request to reconsider denied.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Equal Employment and Dispute Resolution

RECONSIDERED ADMINISTRATIVE REVIEW

In the matter of the Virginia Alcoholic Beverage Control Authority
Ruling Number 2019-4808
December 5, 2018

The grievant has requested that the Office of Equal Employment and Dispute Resolution (“EEDR”) at the Department of Human Resource Management (“DHRM”) reconsider its previously issued administrative review of the hearing officer’s decision in Case Number 11225. For the reasons set forth below, EEDR declines to reconsider its original ruling.

DISCUSSION

In his request for reconsideration, the grievant raises challenges to the hearing officer’s determinations regarding credibility of witnesses, as well as to his interpretation of policy regarding the definition of “falsification.” He asserts that the Regional Manager, who testified that the transactions made by the grievant were fraudulent would not have knowledge of the processes used in the stores to perform inventory. Further, the grievant disputes the characterization of the transactions as “fraudulent,” due to the fact that he had no intent to defraud the agency.

EEDR has carefully considered the grievant’s arguments on this point; however, finds no basis to alter its original administrative review ruling. Determinations regarding the credibility of witnesses are squarely within the purview of the hearing officer, who has the authority to make “findings of fact as to the material issues in the case.”¹ Further, as indicated in the original ruling, state policy does not provide a specific definition for the term “falsification.” The grievant presents no new information in his request for reconsideration that would indicate that the hearing officer has utilized a standard of assessing “falsification” in a way that is inconsistent with state policy. While EEDR understands the grievant’s position in this matter, we find no basis for altering the original administrative review in this case.

CONCLUSION AND APPEAL RIGHTS

For the reasons stated above, the grievant’s request for reconsideration is denied. The grievant has stated no grounds warranting reconsideration of EEDR Ruling Number 2018-4774, which will stand as issued. Pursuant to Section 7.2(d) of the *Grievance Procedure Manual*, a hearing officer’s original decision becomes a final hearing decision once all timely requests for

¹ Va. Code § 2.2-3005.1(C).

administrative review have been decided.² Within 30 calendar days of a final hearing decision, either party may appeal the final decision to the circuit court in the jurisdiction in which the grievance arose.³ Any such appeal must be based on the assertion that the final hearing decision is contradictory to law.⁴



Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

² *Grievance Procedure Manual* § 7.2(d).

³ Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).

⁴ *Id.*; see also *Va. Dep't of State Police v. Barton*, 39 Va. App. 439, 445, 573 S.E.2d 319, 322 (2002).