

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: May 14, 2014; Ruling No. 2014-3882; Agency: Department of Corrections; Outcome: Grievant Not in Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution
RECONSIDERED COMPLIANCE RULING

In the matter of Department of Corrections
Ruling Number 2014-3882
May 14, 2014

The grievant has requested that the Office of Employment Dispute Resolution (EDR) reconsider its compliance determination in Ruling No. 2014-3878 (the initial compliance ruling), which held that the grievant's April 28, 2014 grievance was administratively closed.¹ For the reasons discussed below, we find no error with the initial determination.

FACTS

At issue in the May 1, 2014 initial compliance ruling was whether the grievant had timely initiated her April 28, 2014 grievance and, if not, whether the grievant had just cause for her delay in initiating the grievance.² In that ruling, this Office concluded that the grievance was untimely filed and the grievant did not demonstrate just cause for her delay in initiating the grievance.³ In her request for reconsideration, the grievant states she did not receive notice of her termination until March 28, and asserts that her grievance was in fact timely filed.

DISCUSSION

EDR has long held that the 30 calendar day rule is triggered by the grievant's knowledge of the "event or action" directly affecting the grievant's own employment.⁴ In the initial compliance ruling, EDR determined that the event that formed the basis of the April 28 grievance was the grievant's termination by letter, effective March 17, 2014 and purportedly hand-delivered on that date.⁵ Accordingly, EDR held that the grievances should have been initiated within 30 calendar days of March 17, 2014.⁶ In this instance, the grievant disputes receiving the termination letter, or any notice of her termination, on March 17 and asserts that she received the letter by certified mailing on March 28, 2014.

¹ See EDR Ruling No. 2014-3878.

² *Id.*

³ *Id.*


⁴ See, e.g., EDR Ruling No. 2011-2808; EDR Ruling No. 2008-1894; EDR Ruling No. 2008-1785; EDR Ruling No. 2005-941, EDR Ruling No. 2004-881.

⁵ EDR Ruling No. 2014-3878.

⁶ *Id.*

Even if we assume that the grievant's contention that she had no notice of the termination until March 28 is truthful and accurate, we find that this grievance would have nevertheless been untimely filed on April 28, 2014. In order to show a timely filing from an event occurring on March 28, 2014, the grievant would need to prove that she initiated her grievance by April 27, 2014. It is undisputed that the grievance was initiated with EDR on April 28, 2014. Thus, the grievance was not filed within thirty calendar days of March 28, 2014. The grievant has presented no further evidence that may constitute just cause for her delay in filing. Therefore, EDR concludes that there are no grounds for which reconsideration of EDR's compliance ruling is appropriate.

The grievant's request for reconsideration is denied and the dismissal grievance remains closed. EDR's rulings on matters of compliance are final and nonappealable.⁷



Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁷ See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).