

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: June 10, 2014; Ruling No. 2014-3906; Agency: Virginia Department of Transportation; Outcome: Grievant Not in Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

RECONSIDERED COMPLIANCE RULING

In the matter of Department of Transportation
Ruling Number 2014-3906
June 10, 2014

The grievant has requested that the Office of Employment Dispute Resolution (EDR) reconsider its compliance determination in Ruling No. 2014-3887 (the initial compliance ruling), which held that the grievant's May 12, 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 29, 2014 initial compliance ruling was whether the grievant had timely initiated his May 12, 2014 grievance and, if not, whether the grievant had just cause for his delay in initiating the grievance.² In that ruling, this Office concluded that the grievance was filed untimely and the grievant did not demonstrate just cause for his delay in initiating the grievance.³ In his request for reconsideration, the grievant states that he did not know that he needed to use a Grievance Form A in order to initiate a grievance, and claims that he did not receive this information in a timely fashion from either EDR or the agency.

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 this grievance was the grievant's termination on April 10, 2014.⁵ Accordingly, EDR held that the grievances should have been initiated within 30 calendar days of April 10, 2014, or by May 10, 2014.⁶ In this instance, the grievant does not appear to dispute these dates, but rather, argues that his grievance was not initiated in a timely fashion because he was not familiar with the requirements for initiating a grievance, and did not know until May 12, 2014, that he needed to submit a Grievance Form A.

¹ See EDR Ruling No. 2014-3887.

² *Id.*

³ *Id.*

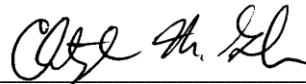
⁴ See, e.g., EDR Ruling No. 2011-2808; EDR Ruling No. 2008-1894; EDR Ruling No. 2008-1785; EDR Ruling No. 2005-941; EDR Ruling No. 2004-881.

⁵ EDR Ruling No. 2014-3887.

⁶ *Id.*

In this instance, the agency disputes the grievant's claim that he did not receive information regarding the grievance procedure and indicates that he was mailed a Grievance Form A and a copy of the Grievance Procedure Manual following the issuance of the disciplinary action. However, as indicated in the initial compliance ruling, EDR has long held that it is incumbent upon each employee to know his or her responsibilities under the grievance procedure.⁷ A grievant's lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to act in a timely manner. The grievant has presented no further evidence that may constitute just cause for his 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.⁸



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Director
Office of Employment Dispute Resolution

⁷ See, e.g., EDR Ruling Nos. 2006-1349, 2006-1350; EDR Ruling No. 2002-159; EDR Ruling No. 2002-057.

⁸ See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).