

Issue: Administrative Review of Hearing Officer's Decision in Case No. 10525, 10549, 10550; Ruling Date: April 16, 2015; Ruling No. 2015-4134; Agency: University of Virginia Medical Center; Outcome: No Ruling – Untimely.



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

ADMINISTRATIVE REVIEW

In the matter of the University of Virginia
Ruling Number 2015-4134
April 16, 2015

The grievant has requested that the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management administratively review the hearing officer’s decision in Case Numbers 10525, 10549, 10550. Because the grievant’s request for administrative review was untimely, EDR will not review the hearing officer’s actions or decision.

FACTS

The hearing decision in Case Numbers 10525, 10549, 10550 was issued on March 26, 2015.¹ On April 11, 2015, EDR received the grievant’s request for administrative review.² The request provided no explanation for the delayed filing.

DISCUSSION

The *Grievance Procedure Manual* provides that “[r]equests for administrative review must be in writing and **received by** the reviewer within 15 calendar days of the date of the original hearing decision. **Received by** means delivered to, not merely postmarked or placed in the hands of a delivery service.”³ Further, the March 26, 2015 hearing decision clearly advised the parties that any request they may file for administrative review must be received by the reviewer within 15 calendar days of the date the decision was issued.⁴ However, EDR received the grievant’s request for administrative review on April 11, 2015, the day after the 15 calendar day period expired on April 10, 2015. Accordingly, the grievant’s request for administrative review by EDR is untimely and, therefore, will not be considered.

Furthermore, the grievant has presented no evidence of any just cause for the delay in submitting his request for administrative review.⁵ EDR has long held that it is incumbent upon

¹ Decision of Hearing Officer, Case Nos. 10525, 10549, 10550, March 26, 2015 (“Hearing Decision”), at 1.

² The grievant’s request was received by e-mail a few minutes after midnight on April 11, 2015.

³ *Grievance Procedure Manual* § 7.2.

⁴ Hearing Decision at 9-10.

⁵ “Just cause” is defined as a “reason sufficiently compelling to excuse not taking a required action in the grievance process.” *Grievance Procedure Manual* § 9.

the parties to know their responsibilities under the grievance procedure.⁶ Any lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to act in a timely manner.

APPEAL RIGHTS

A hearing officer's decision becomes a final hearing decision when the 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request or once all timely requests for review have been decided.⁷ Because the grievant's administrative review request to EDR was untimely, the hearing decision became a final hearing decision on **April 10, 2015**, after the 15 calendar day period expired. 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.⁸



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⁶ See, e.g., EDR Ruling No. 2009-2252; EDR Ruling No. 2009-2079; EDR Ruling No. 2002-159; EDR Ruling No. 2002-057.

⁷ See *Grievance Procedure Manual* § 7.2(d).

⁸ Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).