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ADMINISTRATIVE REVIEW

In the matter of the University of Virginia Medical Center
Ruling Number 2020-5033
December 31, 2019

The grievant has requested that the Office of Employment Dispute Resolution (“EDR”) at the Virginia Department of Human Resource Management¹ administratively review the hearing officer’s decision in Case Number 11418. Because the grievant’s request for administrative review was untimely, EDR will not review the hearing officer’s actions or decision.

The *Grievance Procedure Manual* provides that “[r]equests for administrative review must be in writing and **received by** [EDR] 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.”² The hearing decision in Case Number 11418 was issued on December 5, 2019.³ The decision clearly advised the parties that any request they may file for administrative review must be received by EDR within fifteen calendar days of the date the decision was issued.⁴ EDR received the grievant’s request for administrative review at 1:48 a.m. on December 21, 2019, one day beyond the fifteen calendar day deadline, which expired on December 20, 2019.

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 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. Accordingly, the grievant’s request for administrative review by EDR is untimely and will not be considered.

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as “EDR” in this ruling. EDR’s role with regard to the grievance procedure remains the same.

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

³ Decision of Hearing Officer, Case No. 11418, December 5, 2019 (“Hearing Decision”), at 1.

⁴ Hearing Decision at 5.

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.

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

APPEAL RIGHTS

A hearing officer's decision becomes a final hearing decision when the fifteen 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 **December 20, 2019**, after the fifteen 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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⁷ See *Grievance Procedure Manual* § 7.2(d).

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