

Issue: Compliance/30-Day Rule; Ruling Date: December 7, 2001; Ruling #2001-212;
Agency: Department of Corrections; Outcome: Out of compliance; Grievant.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Corrections
Ruling Number 2001-212
December 7, 2001

ISSUE:

Did the grievant initiate the grievance in a timely manner?

RULING:

No. The grievance was filed beyond the 30 calendar day period without just cause and is therefore untimely. The parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. This Department's rulings on matters of compliance are final and nonappealable.¹

EXPLANATION:

On June 15, 2001, the grievant was issued a Group II Written Notice, but the grievance challenging the disciplinary action was not initiated until July 16, 2001.² The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the event or action that is the basis of the grievance, unless there is just cause for the delay.³

The grievant contends that the grievance was not timely filed because of stress and a lack of knowledge about the grievance process. However, this Department has long held that it is incumbent upon each employee to know his or her responsibilities under the grievance procedure. A grievant's lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to initiate a grievance in a timely manner. Further, the grievant has presented no evidence to show that because of

¹ See Va. Code § 2.2-1001(5).

² Although the grievant's Form A is dated July 14, 2001, it was not presented to the first-step respondent until July 16, 2001.

³ See Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(1), page 6).

December 7, 2001

Ruling 2001-212

Page 3

his alleged stressful condition, he was unable to act upon his legal rights and thus was unable to initiate a timely grievance.⁴

Neil A.G. McPhie, Esquire
Director

June M. Foy
Senior Consultant

⁴ Dickerson v. Henderson, 2001 U.S. Dist. LEXIS 5560 (S.D. Ind. 2001)