

Issue: Compliance/Notice of agency appeal of Hearing Case #5424 decision to the Circuit Court; Ruling Date: May, 2002; Ruling #2002-100; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; Outcome; Approval of appeal granted



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

APPEAL REVIEW RULING OF DIRECTOR

In the matter of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services/No. 2002-100
May 14, 2002

Pursuant to Va. Code 2.2-3006(B), the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) seeks approval from the Director of this Department to appeal the final hearing decision in Case No. #5424 on the basis that it is contradictory to law. Because there is no evidence that the agency's appeal is based on any improper purpose such as to harass or cause delay, its request is granted. DMHMRSAS may now file a notice of appeal with the Circuit Court in the jurisdiction in which the grievance arose. Any such notice must be filed within 30 days of April 29, 2002, the date the hearing decision became final.¹

Approval to proceed with the circuit court appeal in no way reflects the substantive merits of the appeal or addresses the jurisdiction of the circuit court. Note that the circuit court "shall award reasonable attorneys' fees and costs to the employee if the employee substantially prevails on the merits" of the agency's appeal.²

Claudia T. Farr
Director

¹ A hearing decision becomes final when the 10 calendar day period for filing requests for administrative review has expired and neither party has filed such a request. Grievance Procedure Manual §§ 7.2 (d), page 20. When the 10th calendar day falls on a weekend, this Department will allow the following business day to serve as the date that the hearing decision became final.

² Va. Code § 2.2-3006(D).