

Issue: Compliance/30-day rule; Ruling Date: October 18, 2002; Ruling #2002-159;
Agency: Department of Corrections; Outcome: grievant out of compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Corrections
Ruling Number 2002-159
October 18, 2002

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:

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.²

On May 17, 2002, the grievant's shift was changed from day to night shift. The grievant attempted to address this issue through the chain of command, and when he was unsuccessful, filed his grievance on July 12, 2002, well over the required 30 calendar day period.

The grievant contends that the grievance was not timely filed because he was trying to address his concerns with his Warden and trusted the Warden when she said she would get back with him. Further, the grievant states that he did not know until June 26, 2002 that the Warden had been told by HR that his shift change was "voluntary." Since that date, the grievant asserts that he has been trying to gather evidence to support his claim, now presented through this grievance, that he did not voluntarily change shifts, and that

¹ See Va. Code § 2.2-1001(5).

² See Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(1), page 6.

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due to his seniority, he should not have been forced to change shifts. 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 attempts to informally address the issue with the unit head does not constitute just cause for failure to initiate a grievance in a timely manner.

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