

Issue: Compliance/Request from agency to appeal hearing decision; Ruling Date: April 1, 2003; Ruling #2003-069; Agency: Department of Minority Business Enterprise; Outcome: Approval to proceed to circuit court



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

APPEAL REVIEW RULING OF DIRECTOR

In the matter of Department of Minority Business Enterprise
Ruling No. 2003-069
April 1, 2003

Pursuant to Va. Code 2.2-3006(B), the Department of Minority Business Enterprise (agency) seeks approval from the Director of this Department to appeal the final hearing decision in Case No. 5667 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. The agency may file a notice of appeal with the Circuit Court in the jurisdiction in which the grievance arose once the hearing decision becomes a final decision.¹ The notice of appeal must be filed with the clerk of the Circuit Court in the jurisdiction in which the grievance arose within 30 calendar days of the final hearing decision. Approval to proceed with a circuit court appeal in no way addresses the substantive merits of the appeal or the jurisdiction of the circuit court.²

Claudia T. Farr
Director

¹ "A hearing officer's original decision becomes a final hearing decision, with no further possibility of administrative review when: (1) The 10 calendar day period for filing requests for administrative review have expired and neither party has filed such a request; or, (2) All timely requests for administrative review have been decided and, if ordered by EDR [this Department] or DHRM, the hearing officer has issued a revised decision." *Grievance Procedure Manual* § 7.2(d), page 20.

² Appeals based on compliance with the grievance procedure must be raised with this Department, and appeals based on policy must be raised with the Department of Human Resource Management. See *Grievance Procedure Manual* § 7, Review of Hearing Decision, pages 18-20; Va. Code § 2.2-1201(13); *Murray v. Stokes* 378 S.E. 2nd 834 (1989).