

Issue: Compliance/Grievance Procedure/30-day rule; Ruling Date: January 31, 2006;
Ruling #2006-1264; Agency: Department of Motor Vehicles; Outcome: grievance out of
compliance



Department of Employment Dispute Resolution
RECONSIDERED COMPLIANCE RULING OF THE DIRECTOR

In the matter of Department of Motor Vehicles
No. 2006-1264
January 31, 2006

The grievant has requested that the Department of Employment Dispute Resolution (EDR) Director reconsider her December 14, 2005 Ruling.

FACTS

The grievant initiated her grievance one day beyond the 30-day timeframe set forth in the grievance procedure. For the reasons discussed in Ruling 2006-1201, the EDR Director determined that there was no just cause to excuse her untimely filing. After receiving Ruling 2006-1201, the grievant advanced a new ground to excuse her delinquent filing: stress and depression. This ruling addresses the stress and depression issue.

DISCUSSION

As an initial point, this Department will generally not reconsider prior compliance rulings on the basis of evidence that could have been provided to this Department during the investigation for the original compliance ruling. More importantly, the ground upon which the grievant urges this Department to excuse her delay would not have altered the original ruling.

The grievant asserts that from the time that she was out from work from July 21, 2005 through October 1, 2005, she was under a physician's care for stress and depression. She asserts that she is still stressed and depressed. However, as this Department explained in Ruling 2006-1201, illness may constitute just case for delay only where there is evidence indicating that the physical or mental impairment was so debilitating that compliance with the grievance procedure was virtually impossible. That does not appear to be the case here. The grievant concedes that she returned to work on October 1, 2005, twenty days before she was presented with the Group Notice that formed the basis of her untimely November 21, 2005 grievance. Because the grievant was well enough to return to work on October 1st, this Department cannot conclude that she was incapable of using the grievance process, in a timely manner, to challenge her October 21, 2005 Group Notice.

CONCLUSION

For the reasons set forth above, this Department will not disturb its original decision nor entertain further requests for reconsideration on this matter.

Claudia T. Farr
Director