

Issue: Compliance: Grievance Procedure – 30 Day Rule; Ruling Date: May 24, 2007; Ruling #2007-1636; Agency: Department of Motor Vehicles; Outcome: Grievant in compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Motor Vehicles
Ruling Number 2007-1636
May 24, 2007

The grievant has requested a compliance ruling in her March 22, 2007 grievance with the Department of Motor Vehicles (DMV or the agency). The agency administratively closed the grievance for noncompliance with the grievance procedure.

FACTS

The grievant is employed with the agency as a Generalist Sr. On March 2, 2007, the grievant received a Group II Written Notice for violating DMV policies by accepting food from a customer, in addition to other alleged activities. On or about March 22, 2006, the grievant initiated a grievance via U.S. Mail. The grievance was mailed in an envelope addressed to the Richmond DMV headquarters post office box and was marked "Employee Grievance."

DISCUSSION

Failure to Initiate Grievance with Appropriate Step-Respondent

Section 2.4 of the *Grievance Procedure Manual* provides that with limited exceptions, a grievant must initiate his or her grievance with the first-step respondent. Here, the grievant mailed an envelope marked "Employee Grievance" to the post office box for the agency's Richmond headquarters. Presumably, such a document would not be discarded by the agency but would be forwarded to someone in DMV management. The agency asserts that because the grievant failed to initiate her grievance with the proper party, it may close the grievance for noncompliance.

This Department has long held that initiating a grievance in a timely manner but with the wrong party will not bar the grievance for noncompliance.¹ In this case, the agency does

¹ See, e.g., EDR Ruling Nos. 2006-1256, 2006-1257.

not apparently dispute that the grievance was ultimately received by a member of management, within the 30 calendar day period following her receipt of a Group II Written Notice. Accordingly, this Department will not bar the grievance on the basis of noncompliance merely because the grievant failed to initiate it with the proper party.

Incomplete Grievance Form A

The agency also asserts that the grievant failed to comply with § 2.4 of the *Grievance Procedure Manual* because she did not complete the Grievance Form A in its entirety. In particular, the grievant did not complete the section of the Form A which requires identification of the “issues” being grieved.

The agency is correct that § 2.4 of the *Manual* provides that a Grievance Form A must state the grievant’s claim, the facts in support of that claim, and the relief requested. In this case, although the “issues” section is blank, the “relief” and “supporting facts” sections indicate the grievant wants something removed from her file, presumably the Group II Written Notice agency management had recently issued to her.

Thus, it would appear that the grievant provided the agency with reasonable notice of the basis of the March 22nd grievance. Specifically, on March 2nd, the agency issued the grievant a Group II Written Notice based, in large part, on her alleged acceptance of food from a customer. In the “facts” section of her grievance, the grievant states, “I don’t understand[.] I paid for my lunch[.] This makes no sense[.]” She then requests as relief, “Remove from my file.” Although the grievant incorrectly identifies the date of the written notice as of March 1, 2007, the information provided indicates that the grievant seeks the removal from her personnel file of a document apparently involving an allegation about a lunch. Under these circumstances, we cannot agree with the agency that the grievance was so deficient as to justify administrative closing.

CONCLUSION

The first-step respondent is directed to reply to the March 22nd grievance in accordance with the *Grievance Procedure Manual* within 5 workdays of the agency’s receipt of this ruling. This Department’s rulings on matters of compliance are final and nonappealable.²

Claudia T. Farr
Director

² Va. Code § 2.2-1001 (5).