

Issue: Access to the Grievance Procedure; Ruling Date: July 10, 2007;
Ruling #2008-1733; Agency: Department of Military Affairs; Outcome: Access
Denied.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

ACCESS RULING OF DIRECTOR

In the matter of Department of Military Affairs
Ruling No. 2008-1733
July 10, 2007

The grievant has requested a ruling on whether she had access to the grievance procedure when she initiated her May 24, 2007 grievance. The Department of Military Affairs (DMA or the agency) claims that the grievant does not have access to the grievance procedure. For the reasons set forth below, this Department concludes that the grievant did not have access to the grievance process when she initiated her grievance on May 24, 2007.

FACTS

The grievant began employment with the agency on November 6, 2006, as a Trainer and Instructor II. On May 17, 2007, the grievant's employment was terminated prior to the completion of the one-year probationary period.

DISCUSSION

Department of Human Resource Management (DHRM) Policy 1.45 provides that employees "who begin either original employment or re-employment in classified positions must serve 12-month probationary periods effective from the dates of their employment."¹ Because the grievant's employment with the agency began on November 6, 2006, the grievant had not finished her 12-month probationary period when the agency terminated her employment on May 17, 2007. The General Assembly has provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² Employees who have not completed their probationary period do not have access to the grievance procedure.³ Accordingly, the grievant did not have access to the grievance procedure to initiate her May 24, 2007 grievance.

¹ DHRM Policy 1.45, *Probationary Period*.

² Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

³ *E.g.*, EDR Ruling No. 2007-1705, EDR Ruling No. 2005-1032.

APPEAL RIGHTS AND OTHER INFORMATION

For more information regarding actions that you may take as a result of this ruling, please refer to the enclosed sheet. If you wish to appeal the determination that you do not have access to the grievance procedure to circuit court, please notify your Human Resources Office, in writing, within five workdays of receipt of this ruling.

Claudia T. Farr
Director