

Issue: Consolidation – Grievance Procedure – consolidation of grievances for purpose of hearing; Ruling Date: August 14, 2007; Ruling #2008-1745, 2008-1761, 2008-1762; Agency: Department of Conservation and Recreation; Outcome: Consolidated granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Conservation and Recreation
Ruling Numbers 2008-1745, 2008-1761 and 2008-1762
August 14, 2007

The grievant has asked that his October 19, 2006, June 8, 2007, and July 23, 2007 grievances against the Department of Conservation and Recreation (DCR or the agency) be consolidated for hearing. The agency agrees with the grievant's request to consolidate his June 8th and July 23rd grievances, but objects to the consolidation of all three grievances. For the reasons discussed below, this Department finds that consolidation of all three grievances into a single hearing is appropriate and practicable.

FACTS

The grievant was previously employed by the agency as the Chief Ranger of one of its parks. By letter dated September 22, 2006, the grievant was advised that he was being reassigned to a new Park Ranger position at the same park. On October 19, 2006, the grievant initiated a grievance challenging his reassignment. The October 19th grievance asserts, in part, that the reassignment was in fact a demotion—a claim the agency rejects. After the agency head denied the grievant's request for qualification of his October 19th grievance for hearing, the grievant appealed to this Department. On May 4, 2007, this Department qualified the grievance for hearing, determining that the grievant has "presented evidence that raises a sufficient question as to whether his reassignment was in fact a demotion, rather than merely a lateral transfer."¹

Subsequently, on June 7, 2007, the agency issued the grievant a Group II Written Notice with a four-day suspension for allegedly failing to follow agency policies regarding credit card documentation. The grievant initiated an expedited grievance challenging this disciplinary action on June 8, 2007. This grievance has advanced through the management resolution steps and been qualified for hearing by the agency head.

On June 29, 2007, the grievant received a Group II Written Notice for allegedly "disregard[ing]" authority, failing to follow instructions, misusing state property and insubordination. On July 23, 2007, the grievant initiated an expedited grievance challenging his

¹ EDR Ruling No. 2007-1593.

termination. The grievant subsequently asked this Department to consolidate his three grievances for a single hearing. The agency objects to the grievant's request with respect to the October 2006 grievance; it has no objection to consolidation of the grievant's June 2007 and July 2007 grievances.

DISCUSSION

Approval by the Director of this Department or her designee in the form of a compliance ruling is required before two or more grievances may be consolidated in a single hearing. Moreover, EDR may consolidate grievances for hearing without a request from either party.² EDR strongly favors consolidation and will consolidate grievances when they involve the same parties, legal issues, policies, and/or factual background, unless there is a persuasive reason to process the grievances individually.³

This Department finds that consolidation of all three grievances is appropriate. The grievances concern one grievant, involve the same parties and certain potential witnesses, and possibly share common themes and claims. The agency asserts that consolidation of the October 2006 grievance with the other two grievances creates an unnecessary risk of confusion, as the 2nd and 3rd grievances clearly involve disciplinary actions, in contrast to the October 2006 grievance, which the agency argues does not involve discipline. While we acknowledge the agency's concern, we believe that the benefit of consolidation outweighs any such risk, as the grievances do not appear to involve unusually complex or difficult claims. Moreover, we find that consolidation is not impracticable in this instance.

This Department's rulings on compliance are final and nonappealable.⁴

Claudia T. Farr
Director

² *Grievance Procedure Manual* § 8.5.

³ *Id.*

⁴ Va. Code § 2.2-1001(5).