

Issue: Consolidation of grievances for purpose of hearing; Ruling Date: October 30, 2007; Ruling #2008-1850; Agency: Department of Social Services; Outcome: Consolidation Granted.



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*

**CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Social Services  
Ruling Numbers 2008-1850  
October 30, 2007

The Department of Social Services (DSS or the agency) has asked that the grievant's May 25, 2007 and July 20, 2007 grievances be consolidated for hearing. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The grievant was employed by the agency as a Fiscal Technician. On April 18, 2007, the agency issued the grievant a Group II Written Notice for an alleged "[f]ailure to follow a supervisor's instructions and insubordination."<sup>1</sup> On May 25, 2007, the grievant initiated a grievance challenging this disciplinary action. After the parties failed to resolve the May 25<sup>th</sup> grievance during the management resolution steps, the grievance was qualified for hearing and a hearing officer was appointed on September 14, 2007.

On July 20, 2007, the grievant initiated a second grievance challenging a Group II Written Notice issued on July 2, 2007 and her subsequent termination. The parties did not resolve the July 20<sup>th</sup> grievance during the management resolution steps, and on October 10, 2007, the agency head qualified the grievance for hearing. By letter dated October 17, 2007, the agency has asked that the July 20<sup>th</sup> grievance be consolidated with the May 25<sup>th</sup> grievance for hearing.

On October 22, 2007, this Department advised the parties that it had received the agency's request and asked for any additional information from the parties. Neither party has provided any additional information, and the grievant has not objected to consolidation of the grievances for hearing.

DISCUSSION

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<sup>1</sup> It appears that the grievant may not have received the Written Notice until April 26, 2007.

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.<sup>2</sup> 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.<sup>3</sup>

This Department finds that consolidation of the grievant's two grievances is appropriate. The grievances concern the discipline of one grievant, may involve the same parties and certain potential witnesses, and possibly share common themes and claims. Furthermore, the grievances do not appear to involve unusually complex or difficult claims and consolidation is not impracticable in this instance.

This Department's rulings on compliance are final and nonappealable.<sup>4</sup>

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Claudia T. Farr  
Director

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<sup>2</sup> *Grievance Procedure Manual* § 8.5.

<sup>3</sup> *Id.*

<sup>4</sup> Va. Code § 2.2-1001(5).