

Issues: Qualification – Termination, and Consolidation of Grievances for Purpose of Hearing; Ruling Date: August 1, 2008; Ruling #2000-2064, 2009-2065; Agency: Department of Military Affairs; Outcome: Qualified for Hearing and Consolidated Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

**QUALIFICATION AND CONSOLIDATION
RULING OF DIRECTOR**

In the matter of Department of Military Affairs
Ruling No. 2009-2064, 2009-2065
August 1, 2008

The Department of Military Affairs (DMA or the agency) has requested the appointment of a hearing officer for the grievant's May 12, 2008 and May 21, 2008 grievances. For the reasons set forth below, although neither grievance has advanced through the management steps, both grievances are qualified and consolidated with the grievant's previously-qualified May 12th grievance for hearing.

FACTS

The grievant is a former employee of DMA. She was removed from employment effective May 5, 2008, after receiving two Group II Written Notices. On May 12, 2008, the grievant initiated with her director a grievance challenging the disciplinary actions, her leave without pay, and her termination. After the parties failed to resolve the grievance through the management resolution steps, the agency qualified the grievance for hearing and requested the appointment of a hearing officer. On July 3, 2008, a hearing officer was appointed by this Department.

After the agency requested the appointment of a hearing officer on the grievant's first May 12, 2008 grievance, it appears the grievant initiated two additional grievances. The first of these two grievances is essentially a duplicate of the May 12, 2008 grievance for which a hearing officer has previously been appointed; the second of these grievances, dated May 21, 2008, also challenges the disciplinary actions, leave without pay, and subsequent termination. The agency has asked that these two grievances be consolidated with the first May 12th grievance for hearing.

DISCUSSION

The grievance procedure provides for a number of management resolution steps prior to the qualification of a grievance for hearing.¹ The purpose of these steps is to encourage the resolution of grievances at the lowest level possible.

¹ See *Grievance Procedure Manual* §3.

As a general rule, the parties may not agree to bypass the resolution steps in order to expedite the hearing process. This case, however, presents an unusual circumstance. The two grievances for which the agency now requests hearing officer appointment are in large part duplicative of the first May 12th grievance, which has moved through the management resolution steps without resolution. Because the agency has already had an opportunity to address the grievant's concerns through the step-process, requiring the second May 12th and May 21st grievances to progress through the management steps would be an exercise in placing form over substance. Accordingly, the grievant's second May 12th and May 21st grievances are qualified and consolidated for hearing with the grievant's first May 12th grievance.

Claudia T. Farr
Director