

Issue: Consolidation of Grievances for Purpose of Hearing; Ruling Date: May 18, 2009; Ruling #2009-2304, 2009-2304; Agency: Virginia Department of Transportation; Outcome: Consolidation Granted.



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

**CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Transportation  
Ruling Numbers 2009-2304, 2009-2305  
May 18, 2009

The Department of Transportation (DOT or the agency), has asked that the February 24, 2009 grievance of Grievant A be consolidated for hearing with the March 4, 2009 grievance of Grievant B. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The grievants are employed by the agency as toll collection supervisors. On February 12, 2009, Grievant B received a Group II Written Notice for allegedly failing to follow designated safety procedures. On February 17, 2009, Grievant A received a Group II Written Notice for allegedly failing to follow the same procedures. Both grievants initiated grievances challenging the Written Notices.

After the parties failed to resolve the grievances during the management resolution steps, the agency head's designee qualified the grievances for hearing. The agency has asked that the two grievances be consolidated for a single hearing, and the grievants have not objected to this request.

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.<sup>1</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>2</sup>

---

<sup>1</sup> *Grievance Procedure Manual* § 8.5.

<sup>2</sup> *See id.*

This Department finds that consolidation of the grievances of Grievants A and B is appropriate. The two grievances involve the same alleged misconduct at the same facility, and they will likely share common themes, claims, and witnesses. Moreover, we find that consolidation is not impracticable in this instance. Accordingly, the grievances are consolidated to be heard by the same hearing officer in a single hearing. The hearing officer shall independently assess the merits of each grievance and issue two separate decisions based upon his conclusions.

This Department's rulings on compliance are final and nonappealable.<sup>3</sup>

---

Claudia T. Farr  
Director

---

<sup>3</sup> See Va. Code § 2.2-1001(5), 2.2-3003(G).