

Issue: Compliance – Grievance Procedure (5-Day Rule and Documents);
Ruling Date: September 17, 2012; Ruling No. 2012-3302; Agency:
Department of Alcoholic Beverage Control; Outcome: Issue Moot – No Ruling.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

COMPLIANCE RULING

In the matter of the Department of Alcoholic Beverage Control
EDR Ruling Number 2012-3302
September 17, 2012

On March 19, 2012, the Department of Employment Dispute Resolution, which has since become the Office of Employment Dispute Resolution (EDR) at the Virginia Department of Human Resource Management (DHRM), received the grievant's request for a compliance ruling. He alleges that the agency has failed to comply with the provisions of the *Grievance Procedure Manual* concerning documents requested.

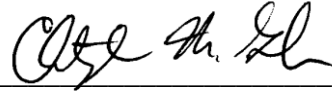
The grievant's September 8, 2011 grievance advanced through the management resolution steps, and when the agency failed to qualify the grievance for hearing, the grievant asked EDR to do so.¹ EDR declined to qualify the grievance and informed the grievant in a February 1, 2012 qualification ruling that if the grievant wanted the circuit court to qualify his grievance for hearing, he needed to request qualification within five workdays of receipt of the ruling.² The grievant requested EDR reconsider its qualification decision, and as a matter of procedural compliance, EDR declined the request to reconsider EDR Ruling Number 2012-3224 because the arguments asserted by the grievant should have been raised to the circuit court.³ On February 14, 2012, the grievant filed a Notice of Appeal with the Circuit Court. On March 7, 2012, a retired Circuit Court Judge remanded the September 8, 2011 grievance to EDR for a full administrative hearing. Shortly thereafter, the agency filed a Motion for Reconsideration, which the Court granted. Upon reconsideration, the Court vacated the March 7, 2012 order. In an August 20, 2012 order, the Court upheld EDR's decision to decline qualification of the grievant's September 8, 2011 grievance and held EDR's decision was not arbitrary or capricious. Therefore, the grievant's September 8, 2011 grievance is now concluded and the grievant's request for a compliance ruling is moot and need not be addressed at this time.

¹ See EDR Ruling No. 2012-3224.

² *Id.*

³ See EDR Ruling No. 2012-3282.

EDR's rulings on matters of compliance are final and nonappealable.⁴



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⁴ Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).