

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: May 25, 2012; Ruling No. 2012-3352; Agency: Virginia Department of Transportation; Outcome: Grievant Not in Compliance.



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

**COMPLIANCE RULING OF DIRECTOR**

In the matter of the Virginia Department of Transportation  
Ruling Number 2012-3352  
May 25, 2012

The grievant has requested a ruling on whether his April 11, 2012 grievance with the Virginia Department of Transportation (“VDOT” or the “agency”) is in compliance with the grievance procedure. The agency asserts that the grievance does not comply with the grievance procedure because it was not timely initiated. For the reasons set forth below, this Department determines that the grievance is untimely and may be administratively closed.

FACTS

The grievant was employed as a Transportation Operator II with the agency. On March 6, 2012, the grievant was presented with a Group III Written Notice with discharge. The grievant initiated a grievance on April 11, 2012 challenging the disciplinary action.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he or she knew or should have known of the event or action that is the basis of the grievance.<sup>1</sup> When an employee initiates a grievance beyond the 30 calendar day period without just cause, the grievance is not in compliance with the grievance procedure and may be administratively closed.

Here, it is apparent that the event that forms the basis of the April 11, 2012 grievance is the grievant’s receipt of the March 6, 2012 Written Notice. The grievant indicated on his Grievance Form A that the date that the grievance occurred was March 6, 2012 and states that he was discharged on that day. Because the grievant initiated his grievance more than 30 calendar days beyond the receipt of the Written Notice, the grievance is untimely. The only remaining question is whether there was just cause for the delay.

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<sup>1</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4.

Here, the grievant asserts that after his discharge he was stressed, had a lot going on, and the filing of the grievance was something that just slipped his attention. While it is unfortunate for the grievant that the filing of the grievance escaped his timely attention, his reasons – stress and having a lot going – on do not equate to just cause for noncompliance.

#### CONCLUSION

For the reasons set forth above, this Department concludes that the grievance was not timely initiated and there is no evidence of just cause for the delay. The parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. This Department's rulings on matters of compliance are final and nonappealable.<sup>2</sup>

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Claudia T. Farr  
Director

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<sup>2</sup> See Va. Code §§ 2.2-1001(5), 2.2-3003(G).