

Issue: Administrative Review of Hearing Officer's Decision in Case No. 9801;
Ruling Date: June 8, 2012; Ruling No. 2012-3365; Agency: Virginia
Commonwealth University; Outcome: Untimely – No Ruling.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

ADMINISTRATIVE REVIEW RULING OF DIRECTOR

In the matter of Virginia Commonwealth University
Ruling Number 2012-3365
June 8, 2012

On May 30, 2012, this Department (EDR) received a letter from the grievant requesting administrative review of the Decision of the Hearing Officer in Case Number 9801. The hearing decision for Case Number 9801 was issued May 10, 2012.¹ EDR received the grievant's request for administrative review on May 30, 2012. Therefore, the grievant's request is untimely and there is no just cause for the delay.

Appeals to this Department considered under section 7.2 of the Grievance Procedure Manual as administrative reviews "must be made in writing, and *received* by the administrative reviewer, within 15 calendar days of the date of the original hearing decision."² The May 10, 2012 hearing decision also advised the parties that any request they may file for administrative review to the hearing officer, the Department of Human Resource Management (DHRM), or EDR must be *received* by the reviewer within 15 calendar days of the date the original decision was issued.³

This Department did not receive the grievant's request for administrative review until May 30, 2012, five days beyond the expiration of the 15 calendar-day period, making it untimely. Because EDR did not *receive* the grievant's request for review in a timely manner, it cannot be considered. Furthermore, the grievant has presented no indication of "just cause" for the delay.⁴

APPEAL RIGHTS

A hearing officer's decision becomes a final hearing decision when the 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request or once all timely requests for review have been decided.⁵ It appears that the hearing decision in Case Number 9801 became a final hearing decision after the 15 calendar

¹ Decision of Hearing Officer, Case No. 9801, May 10, 2012 ("Hearing Decision"), at 1.

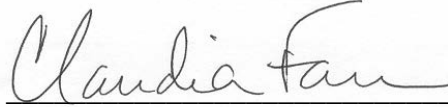
² *Grievance Procedure Manual* § 7.2(a).

³ Hearing Decision at 7.

⁴ "Just cause" is defined as a "reason sufficiently compelling to excuse not taking a required action in the grievance process." *Grievance Procedure Manual* § 9.

⁵ *Grievance Procedure Manual* § 7.2(d).

day period for filing requests for administrative review expired on May 25, 2012, as this Department is unaware of any timely requests for administrative review submitted by either party. The parties would have 30 calendar days from that date to appeal the decision to the circuit court in the jurisdiction in which the grievance arose. The basis of any such appeal must be that the final decision was contradictory to law.⁶

A handwritten signature in cursive script that reads "Claudia Farr". The signature is written in black ink and is positioned above a horizontal line.

Claudia T. Farr
Director

⁶ Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).