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COMPLIANCE RULING

In the matter of the Virginia Department of Motor Vehicles
Ruling Number 2023-5463
October 5, 2022

The Virginia Department of Motor Vehicles (the “agency”) has requested a compliance ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management in relation to the grievant’s dismissal grievance. The agency asserts that the grievant did not initiate her grievance within the 30-calendar-day time period required by the grievance procedure.

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date they knew or should have known of the event or action that is the basis of the grievance.¹ 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. EDR has long held that in a grievance challenging a disciplinary action, the 30-calendar-day timeframe begins on the date that management presents or delivers the Written Notice to the employee.² Further, the *Grievance Procedure Manual* states that “[a]n employee who wishes to appeal a disciplinary action must file a grievance within 30 calendar days of receipt of the Written Notice.”³

In this case, the event that forms the basis of the grievance is the grievant’s termination via the issuance of a Group II Written Notice on or about August 16, 2022. The grievant initiated a dismissal grievance with EDR challenging the disciplinary action and her termination on September 20, 2022.⁴ Because the grievant received the correct version of the Written Notice by email on August 17, 2022, she should have initiated the grievance within thirty days, i.e., no later than September 16, 2022. She did not initiate the grievance until September 20, 2022.

As just cause for her late filing, the grievant argues that she was unaware that she had to complete a grievance form to appeal her termination. The grievant also argued that she believes she initiated the grievance process when she emailed EDR that she wanted to challenge her

¹ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* §§ 2.2, 2.4.

² E.g., EDR Ruling No. 2019-4845; EDR Ruling No. 2015-4181; EDR Ruling No. 2013-3582.

³ *Grievance Procedure Manual* § 2.2 n.2 (emphasis added). The Written Notice form includes similar language.

⁴ The grievant sent an email regarding an appeal of her termination on September 16, but did not complete and submit a Form A until September 20.

termination. However, an employee's expression of their intent to file a grievance is not sufficient to initiate a grievance. The grievance procedure states that "[a]n employee must initiate a grievance on a fully completed 'Grievance Form A.'"⁵ Though we are sympathetic to the grievant's concerns, EDR has long held that it is incumbent upon each employee to know his or her responsibilities under the grievance procedure.⁶ A grievant's lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to act in a timely manner. For these reasons, EDR concludes that the grievant has not demonstrated just cause for the delay in initiating her grievance.

Accordingly, EDR concludes that the grievance was not timely initiated and that there was no just cause for the delay. EDR's file will reflect that the grievance is closed for noncompliance and the matter will not proceed to a grievance hearing.

EDR's rulings on matters of compliance are final and nonappealable.⁷

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⁵ *Grievance Procedure Manual* § 2.4.

⁶ *See, e.g.*, EDR Ruling No. 2020-4991; EDR Ruling No. 2019-4776; EDR Ruling No. 2019-4643

⁷ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).