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Frederick W. Rantz Appellant

V.

Finance and Administrative Services City of Seattle, Respondent

ORDER On City's Motion to Dismiss CSC No. 11-01-020

FACTUAL BACKGROUND

The first Pre-hearing Conference in this matter was held on December 8, 2011; Galen Mauden, Human Resources Director and Terry McLellan represented the City and Mr. Rantz appeared pro se. The City filed a motion to dismiss this appeal on December 5, 2011. Appellant Rantz submitted a letter of response the next day, December 6, 2011.

At the prehearing conference this Hearing Officer took the issue of timeliness under advisement, specifically whether Mr. Rantz filed his notice of appeal within the required time after receiving notice of termination, or submitting his resignation. Mr. Rantz had clarified that he was not appealing his 30-day suspension, and this Hearing Officer declined to dismiss the matter on the issue of whether appellant's resignation took the matter out of the Commission's jurisdiction.

The City's position is that Appellant filed his appeal more than 20 days after he received notice of his termination which came in the form of a letter and oral notice to Mr. Rantz on October 19, 2011, and also in the form of his resignation, which was permitted in lieu of termination, also on October 19, 2011.

Mr. Rantz argues that when time was computed earlier in connection with his Last Chance Agreement (LCA), the City interpreted the time as business days even though the agreement specified calendar days. Mr. Rantz did not challenge the misinterpretation of the LCA at the time, but argues the prior misinterpretation creates applicable precedent, and also that he should be provided some leniency in this current setting due to the prior error.

The City submitted a copy of a resignation letter by Rantz dated October 19, 2011. Rantz in his appeal, states he was told on October 19, 2011, that he was being fired. The City also supplied a copy of the termination letter dated October 19, 2011, to which was attached notice of appellant's right to appeal to the CSC including notice of the 20-day filing deadline. The CSC file indicates Rantz' appeal was received on November 14, 2011, by both the date stamp on the appeal documents and by reference in the Executive Director's letter to appellant dated November 18, 2011.

All Orders entered by the Executive Director shall control the subsequent course of the appeal and hearing. Orders shall be subject to modification only upon timely filing of written exceptions to the Order. The Commission must receive the written exceptions within twenty (20) days after receipt of said Order. Failure to timely raise objections to an Order shall constitute a waiver of such objections, and will preclude the party from introducing new evidence, exhibits, witnesses, issues, objections pertaining thereto, or any other pre-hearing matters at the hearing.

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3	The Civil Service Commission (CSC) Rules provide that "A notice of appeal must be received at the Commission offices no later than twenty (20) days after the date of the final notice from the
5	department of the action that is the subject of the appeal." CSC Rule 5.05. The Seattle
6	Municipal Code provides that "an appeal from a disciplinary action must be filed within twenty
7	(20) days of giving to the employee notice of the action and the information that he or she has a
8	right to appeal to the Civil Service Commission and twenty (20 days for fling the appeal." SMC
9	4.04.260(B)(2).
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12	HEARING ORDER
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14	The appeal was not received by the CSC within 20 days of appellant's notice of his termination,
15	and therefore was untimely and must be dismissed. The fact that the City may have not have
16	followed timelines in the LCA does not impact the interpretation of rules relevant to this decision.
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18	Although it appears all relevant facts are not in dispute, providing no alternative to dismissal, at
19	this point in time the dismissal shall be without prejudice to provide appellant the opportunity to
20	provide additional relevant information that may not be apparent to the Hearing Officer from the
21 22	current record. The issue proceeded without full opportunity for briefing by Appellant.
23	IT IS HEREBY ORDERED THAT THE APPEAL IS DISMISSED WITHOUT PREJUDICE.
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25	Dated this 19th day of December, 2011
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27	FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION
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31	Diane Hess Taylor, Hearing Officer

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