BEFORE THE MERIT EMPLOYEE RELATIONS BOARD

IN THE MATTER OF LISA D. VOLK, Grievant, v. STATE OF DELAWARE, DEPARTMENT OF HEALTH & SOCIAL SERVICES Agency	**DOCKET NO. 95-06-33** **OPINION AND ORDER**

BEFORE Bowers, Fullman and Green constituting a lawful quorum of the Board pursuant to 29 Del Code, Section 5908(a).

And now this 14th day of December, 1995, it appearing to the Board that:

1. A hearing was held on October 5, 1995 with regard to the above-mentioned grievance. Representing the Department of Health & Social Services was Martha Austin, a labor relations specialist and personnel administrator and Loretta LeBar, Deputy Attorney General. The grievant, Lisa Volk, was not present, nor was any representative present.

2. Ms. Austin was sworn and testified as follows: Ms. Austin is a personnel administrator with the Department of Health & Social Services. In November, 1993, the Secretary of the Department of Health & Social Services, the Honorable Carmen Nazario, received a letter from the Office of Auditor of Accounts, Audit Supervisor, E. Karen Whittaker, alleging that the grievant, Lisa D. Volk, had falsified her job application by stating she had a Bachelor of Science degree in Business Administration which, according to the complaint they received, she did not.

3. Ms. Austin testified that a review of the Department's personnel files showed that on an application filed on October 29, 1991, Lisa D. Volk indicated that she did have a degree from Huntington College, Montgomery, Alabama, issued December, 1982 and major subject Health

Education and Social Services and minor subject Business. Because of her education as listed she was started with an advanced salary, effective December 16, 1991. Ms. Austin further testified that in October, 1992 Ms. Volk submitted an application for a different position with the Department as a Management Analyst III. Ms. Austin testified that in this application the degree at Huntington College issued 1983 was listed as Business Management/Health.

4. Ms. Austin testified that an investigation was done by the Department of Health and Social Services in response to the complaint. The investigation revealed that Ms. Volk did not possess a degree in Health Education but, instead, had a Bachelor of Science degree in Business Administration. Ms. Austin testified that Ms. Volk was asked to provide copies of her transcripts and diplomas and that she responded back that the college would not release the diploma because of outstanding fees owed but instead provided an official transcript which showed a major in Business Administration.

5. Ms. Austin testified further that the Department of Health & Social Services terminated Ms. Volk for falsifying an employment application.

THE LAW

29 Del. C. § 5931. Grievances.

"The rules shall provide for the establishment of a plan for resolving employee grievances and complaints. The final two (2) steps of any such plan shall provide for hearings before the Director or the Director's designee and before the Board, respectively, unless a particular grievance is specifically excluded or limited by the Merit Rules. The director and the Board, at their respective steps in the grievance procedure, shall have the authority to grant back pay, restore any position, benefits or rights denied, place employees in a position they were wrongfully denied, or otherwise make employees whole, under a misapplication of any provision of this chapter or the Merit Rules. The rules shall require that the Board take final action on a grievance within ninety (90) calendar days of submission to the Board. Upon approval of all parties, the ninety (90) days may be extended an additional thirty (30) calendar days. (29 Del. C. 1953, § 5931; 55 Del Laws, c. 443, §6, 69 Del. Laws, c. 436, §7.)" Effect of amendments -- 69 Del. Laws, c. 436, effective July 14, 1994, rewrote this section.

Merit Rule 14.0610

If circumstances lead an appointing authority to consider dismissing an employee who has completed the probationary period, the employee must be notified in writing that such action is being considered and provided the reasons for the proposed action. such notification shall also inform employees of their opportunity for a pre-

termination hearing, and that such hearing must be requested within ten (10) work days from the date the notification is sent. Upon receiving such request, the hearing shall be scheduled within a reasonable time not to exceed ten (10) work days. The employee may be suspended without pay during this period.

Merit Rule 15.0210

Falsification of records or use of official position for personal advantage. Deliberate misrepresentation, including falsification, exaggeration or concealment, of a material fact in any official document, or withholding of material facts in connection with matters under investigation may be justification for dismissal.

FINDING OF FACT

1. Lisa D. Volk applied for a position with the Department of Health & Social Services in December, 1991.

2. On her application she indicated as having earned a degree of Bachelor of Science in Health, Education and Social Services with a minor subject in Business.

3. A review of the copies of the official transcripts maintained by Huntington College of Montgomery, Alabama indicate that the degree that was earned in 1993 was a Bachelor of Science in Business Administration and that Ms. Volk did not possess a degree in Health Education or Social Services.

CONCLUSION OF LAW

The grievant was appropriately terminated by the Department of Health and Social Services for falsifying information on an employment application.

ORDER

The grievance is denied and the matter is dismissed.

IT IS SO ORDERED

Walter Bowers

Gary Fullman

Dallas Green

APPEAL RIGHTS

29 Del. C. § 5949 provides that the grievant shall have a right of appeal to the Superior Court on the question of whether the appointing authority acted in accordance with law. The burden of proof of any such appeal to the Superior Court is on the grievant. All appeal to the Superior Court are to be filed within thirty (30) days of the employee being notified of the final action of the Board.

Mailing Date: December 18, 1995

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