BEFORE THE MERIT EMPLOYEE RELATIONS BOARD

OF THE STATE OF DELAWARE

MELINDA WOLKOWIAK,	)	
	)	
Employee/Grievant,	)	
	)	**DOCKET Nos. 08-03-416**
v.	)	**08-08-426**
	)	
DEPARTMENT OF HEALTH AND SOCIAL SERVICES,	)	
	)	**ORDER OF DISMISSAL**
Employer/Respondent.	)	

By letter dated March 25, 2009, the employee/grievant's attorney, Roy S. Shiels, Esquire, notified the Board that Melinda Walkowiak was withdrawing her two appeals because she has decided to retire from State service. Based on Wolkowiak's voluntary withdrawal of her appeals, the Board dismisses those cases with prejudice.

SO ORDERED, this 22nd day of April, 2009

Brenda C. Phillips
Chair

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 agency acted in accordance with law. The burden of proof on any such appeal to the Superior Court is on the grievant. All appeals to the Superior Court must be filed within thirty (30) days of the employee's being notified of the final action of the Board.

29 *Del. C.* §10142 provides:

> (a) Any party against whom a case decision has been decided may appeal such decision to the Court.
>
> (b) The appeal shall be filed within 30 days of the day the notice of the decision was mailed.
>
> (c) The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the agency for further proceedings on the record.
>
> (d) The court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the agency and of the purposes of the basic law under which the agency has acted. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the agency's decision was supported by substantial evidence on the record before the agency.

Mailing date: May 1, 2009

Distribution:
Original: File
Copies: Grievant
Agency's Representative
Board Counsel

I:\TUPMAN\FILES\MERB.generic. ORDER.wpd