

**BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE**

CHINARA JACKSON,)	
)	
Employee/Grievant,)	Docket No. 19-04-722
v.)	
)	DECISION AND ORDER
DEPARTMENT OF HEALTH AND SOCIAL SERVICES,)	
DIVISION OF CHILD SUPPORT SERVICES,)	
)	
Employer/Respondent.)	

After due notice of time and place, this matter came to a hearing before the Merit Employee Relations Board (the Board) at 9:00 a.m. on July 18, 2019, at the Delaware Public Service Commission Hearing Room, Cannon Building, located at 861 Silver Lake Blvd., Dover, DE 19904.

BEFORE W. Michael Tupman, Chair, Paul Houck, Jacqueline D. Jenkins, Ed.D, and Victoria D. Cairns, Members, a quorum of the Board under 29 *Del.C.* §5908(a).

APPEARANCES

Rae M. Mims
Deputy Attorney General
Legal Counsel to the Board

Deborah L. Murray-Sheppard
Board Administrator

Grievant did not appear for hearing

Kevin Slattery
Deputy Attorney General
on behalf of the DHSS, Division of
Child Support Services

BRIEF SUMMARY OF THE EVIDENCE

A hearing was convened by the Merit Employee Relations Board (“Board”) on Thursday, July 18, 2019 to consider a motion to dismiss the grievance of Chinara Jackson (“Jackson”) against the Department of Health and Social Services, Division of Child Support Services (“Agency”).

The Grievant was hired by the Agency as a Child Support Specialist on June 11, 2018. Prior to the completion of the one-year probationary period established in Merit Rule 9, Jackson was released from service on February 27, 2019.

On April 30, 2019, Jackson filed a dual appeal of her termination to both the Department of Human Resources and the Merit Employee Relations Board, pursuant to Merit Rule 12.9.

By email dated May 28, 2019, the Department of Human Resources advised Jackson that it would not hear the grievance because it was not timely filed.

Thereafter, on June 11, 2019, the Agency filed a Motion to Dismiss the grievance in which it asserted the Board lacked jurisdiction to hear Jackson’s grievance because it was not filed in a timely manner. MERB forwarded the Agency’s Motion to Jackson on June 12, 2019, and provided her with the opportunity to respond in writing on or before June 21, 2019. A hearing on the Motion to Dismiss was scheduled for July 18, 2019, and Jackson was so notified by certified United States mail sent to her last known address as provided to the Board.

Jackson did not file a written response to the Agency’s motion nor did she appear at the July 18, 2019 hearing.

CONCLUSIONS OF LAW

Merit Rule 12.9 states:

Employees who have been dismissed, demoted or suspended may file an appeal directly with the DHR Secretary or the MERB within 30 days of such action. Alternatively, such employees may simultaneously file directly with the DHR Secretary, who must hear the appeal within 30 days. If the employee is not satisfied with the outcome at the DHR

Secretary's level, then the appeal shall continue at the MERB.

It is undisputed that Jackson did not file her grievance until April 30, 2019, sixty-two (62) days after she was terminated on February 27. The Board concludes as a matter of law that it does not have jurisdiction to hear Jackson's appeal because it was not filed within thirty days as required by Merit Rule 12.9.

ORDER

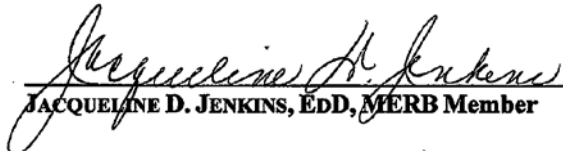
It is this **8th** day of **August, 2019**, by a vote of 4-0, the Decision and Order of the Board to grant the motion to dismiss and to dismiss the grievance because the Board lacks jurisdiction to consider a grievance which is not timely filed.



W. MICHAEL TUPMAN, MERB CHAIR



PAUL R. HOUCK, MERB Member



JACQUELINE D. JENKINS, EDD, MERB Member



VICTORIA D. CAIRNS, MERB Member