

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 16-09

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

CALVIN G. BLACK, Appellant,

vs.

DEPARTMENT OF AVIATION,
and the City and County of Denver, a municipal corporation, Agency.

The Appellant was ordered to show cause why he believes the Hearing Office has jurisdiction over this appeal filed this appeal on March 5, 2009. This is an appeal of a grievance regarding a written reprimand dated Feb. 4, 2009. Pursuant to rule, written reprimands may not be appealed. CSR §§ 19-10 A.2.b.v; 18-40 E.1.

The Appellant has responded to the order to show cause. He claims jurisdiction based upon (1) no alternative forum to seek a remedy; (2) the Agency's failure to prove the Appellant violated any Career Service Rule and; (3) discrimination.

1. No alternative forum. The Hearings Office has only such jurisdiction as is conferred by the City Charter and under the Career Service Rules. The Career Service Board, which implements the directives of the City Charter through the Career Service Rules, has specifically exempted written reprimands from the jurisdiction of the Hearings Office. CSR 19-10 A.2.b.v.; 18-40 E.1. Thus, even though there may be no alternative forum in which to appeal the grievance of a written reprimand, the Hearings Office is without jurisdiction over the subject matter of this claim – a written reprimand.

2. Failure of Proof. The Hearings Office may not consider the merits of a claim absent jurisdiction over the subject matter of the claim. This claim fails to identify the Hearings Office jurisdiction over the Appellant's claim and therefore jurisdiction is denied on this basis.

3. Discrimination. A complaint of discrimination must first be made to the agency before the Hearings Office may obtain jurisdiction. CSR 19-10 A. 2. a. The Appellant's underlying grievance failed to state a claim of discrimination, and his response failed to provide evidence of such a grievance to his agency. This claim also fails. The record is devoid of any other basis under which the Hearings Office may acquire jurisdiction in this case.

Order

The Appellant's appeal is DISMISSED WITH PREJUDICE.

DONE March 12, 2009.

A handwritten signature in black ink, appearing to read "Bruce A. Plotkin", written over a horizontal line.

Bruce A. Plotkin
Career Service Hearing Officer