

ORDER OF DISMISSAL

IN THE MATTER OF THE APPEAL OF:

NANCY SCHNARR, Appellant,

vs.

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

Appellant has been ordered to show cause why this appeal should not be dismissed for lack of jurisdiction. Both Appellant and the Agency filed timely responses to the order.

This is an appeal of the denial of Appellant's grievance of a written reprimand for bypassing an internal accounting control procedure. Written reprimands are not appealable. CSR § 19-10 A.2.b.v. Appellant argues in her response that this is a whistleblower appeal because the grievance challenges the grievance as an adverse employment action under DRMC § 2-107.

In order to establish a whistleblower claim under the city ordinance, an employee must allege that an adverse action was taken in retaliation for a report to an appropriate authority of official misconduct. This appeal asserts no official misconduct or report to an authority. In her response, Appellant alleges only that she requested that threats of termination stop. "Since Brad [Gunther] approached my desk and I requested that he not speak to me anymore I should have been protected in my own work space." In the light most favorable to the Appellant, this asserts only that Appellant had a dispute with a co-worker about his access to her work space. Thus, Appellant has not alleged that she reported an act of official misconduct, as necessary to raise a whistleblower claim.

Since the appeal does not set forth a whistleblower claim, the 30-day filing deadline does not apply. Therefore, I need not resolve the issue of whether the appeal was filed on the 30th or 31st day after the Agency's grievance response.

ORDER

Based on the foregoing findings, this appeal is dismissed with prejudice for lack of jurisdiction over the denial of the grievance.

DONE April 20, 2012.


Valerie McNaughton
Career Service Hearing Officer