

**HEARINGS OFFICER, CAREER SERVICE BOARD,
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 51-05

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

JOHN HERZOG, Appellant,

vs.

Department of Environmental Health, Agency, and
the City and County of Denver, a municipal corporation.

The Hearings Officer required the Appellant to show cause why his appeal should not be dismissed for failure to state a claim upon which the Hearings Officer has jurisdiction to grant relief. Two jurisdictional shortfalls were raised, under CSR 11-40, and under CSR15-96. The parties have filed timely answers to the Hearings Officer's Order to Show Cause dated May 26, 2005. Having considered the parties' responses, and being otherwise informed in this matter, the Hearings Officer now finds and orders as follows.

1. CSR 11-40, 41 states

11-40 Administrative Leave

11-41 Basis of Granting

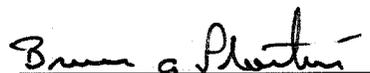
Appointing authorities shall grant an employee administrative leave with pay to present grievances or appeals to an official of the City and County or to represent an employee presenting a grievance or an appeal....

The Appellant correctly points out the language is mandatory. What is mandatory in the context of an appeal is to grant leave to present a grievance or appeal to an official. The Appellant invites the Hearings Officer to interpret "present a grievance or appeal to an official" to include his time in preparing his appeal for grievance and appeal hearing. The Hearings Officer declines the invitation. No commonly understood reading of "present grievances or appeals to an official" would include the preparation time thereof, and the Appellant has not provided any reason to expand the definitions within the rule.

The Appellant next responded to the show cause directive regarding his request to seek leave under CSR 15-96, which reads "[i]f the representative is also a City employee, he or she shall be allowed to take up to a maximum to two (2) hours of approved administrative leave per week" The Appellant states he represents himself and therefore concludes the rule "shall be applicable in self-representation (s)." The Hearings Officer declines to join the Appellant's proffered use of "representation" to include one's self, when all authoritative definitions thereof clearly mean to act on behalf of another. See, e.g. Encarta Dictionary, Webster's Unabridged Dictionary (1979), Merriam-Webster Online, Cambridge Dictionaries Online.

The Hearings Officer finds the Appellant has not responded meaningfully to the Order to Show Cause of May 26th 2005. Therefore, the Hearings Officer finds the Appellant has failed to state a claim upon which the Hearings Officer has jurisdiction to grant relief. Accordingly this appeal is DISMISSED WITH PREJUDICE.

DONE this 5th day of July, 2005.


Bruce A. Plotkin
Hearing Officer
Career Service Board