

**HEARING OFFICER, CAREER SERVICE BOARD  
CITY AND COUNTY OF DENVER, COLORADO**  
Appeal No. 75-07

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**DECISION**

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IN THE MATTER OF THE APPEAL OF:

**LYNNE LOMBARD-HUNT**, Appellant,

vs.

**DEPARTMENT OF HUMAN SERVICES**,  
and the City and County of Denver, a municipal corporation, Agency.

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The hearing in this appeal was held on Jan. 18, 2008 before Hearing Officer Valerie McNaughton. Appellant was present and represented by Harry Hunt, an attorney licensed in the District of Columbia, Reg. # 464929. The Agency was represented by Assistant City Attorney Niels Loechell. Administrative Support Supervisor [REDACTED] served as the Agency's advisory witness. Having considered the evidence and arguments of the parties, the following findings of fact and conclusions of law are entered herein.

I. INTRODUCTION

Appellant Lynn Lombard-Hunt was a probationary Eligibility Technician for the Department of Human Services (Agency) hired in July 2007, and terminated during her probation in October 2007. On Nov. 7, 2007, Appellant filed an appeal which alleged that her dismissal discriminated against her based on her race, African American, color, age, disability, and other status, intimidation. In her pre-hearing statement, Appellant also claimed that her termination was in retaliation for her support of a co-worker's employment appeal, which was accepted as an issue for hearing by order dated Dec. 24, 2007. In that same order, the claims of age discrimination and hostile work environment based on age were dismissed, and summary judgment was issued for the Agency on the issue of disability discrimination. Agency's Exhibits 3, 4, 6 and 9 were admitted by stipulation. Exhibits 7 and 8 were withdrawn. Appellant's Exhibits B, E, F and H were also admitted.

II. ISSUES

1. Did Appellant prove by a preponderance of the evidence that the Agency's termination of Appellant's probation was caused by discrimination on the basis of her race or color, and

2. Did Appellant prove by a preponderance of the evidence that the Agency's termination of Appellant's probation was caused by retaliation for her protected activity?

### III. FINDINGS OF FACT

Appellant was hired on July 17, 2007 as an Eligibility Technician in the Temporary Assistance for Needy Families (TANF) unit assigned to the Colorado Works program area, where she was supervised by Montbello Branch Manager [REDACTED]. Appellant was hired by [REDACTED] and trainer Matthew Paris, both of whom are African American. [REDACTED] and Appellant are both African American females. As a new employee, Appellant was on probation from the date of hire to her termination on Oct. 24, 2007.

During her employment, Appellant attended training sessions from Monday to Thursday in another location, and returned to the Montbello office on Fridays. Appellant was the only probationary employee under [REDACTED] at the time.

At Appellant's initial meeting with [REDACTED] after her hire, Appellant and Ms. [REDACTED] met for about an hour. [REDACTED] gave Appellant a copy of the employment handbook, and informed her it would be her bible. The handbook stressed compliance with attendance policies, among other matters. [REDACTED] explained how to fill in her time sheet to ensure it was accurate. The time sheet requires both the employee and the supervisor to certify that the hours listed are accurate. [REDACTED] also instructed Appellant to send her an email message at arrival and departure every day. Within the Family and Adult Division, all employees are required to email their arrival and departure times to their supervisor.

During that meeting, Appellant and [REDACTED] talked about their colleges and various life experiences. Appellant asked [REDACTED] the origin of her name, and [REDACTED] told her. Appellant informed her that this was her first job after she had been shot, and that she suffered from post traumatic stress syndrome. Appellant noticed that [REDACTED] wore the colors of Alpha Kappa Alpha, a sorority for African American females, and asked her if she was a member. [REDACTED] confirmed that she is a member of the sorority. Appellant replied, "I could tell." Appellant testified that after their first meeting, she felt happy to be working for [REDACTED], who she observed was a successful and educated African American woman of about her age. Appellant was hopeful that [REDACTED] would become her mentor.

Based on Appellant's experience at Hammond, a traditionally black college, and her experiences in Virginia and the District of Columbia, she believes that Alpha Kappa Alpha does not allow admission of African Americans whose skin in Appellant's words is "darker than a paper bag", and whose hair is not straight. During the three months of Appellant's employment, [REDACTED] made several comments about Appellant's hair, noticing whether she wore it straight or "up and kinky". Appellant testified she is not a member of the sorority because she prefers sports, and that she does not know any members of the local chapter of Alpha Kappa Alpha. [REDACTED] testified that she

pledged with the sorority's Colorado chapter, and that her skin is the lightest of her six sorority sisters, two of whom are from Africa. [REDACTED] observed that Appellant's skin is far lighter than that of her sorority sisters.

Early in her employment, Appellant sent [REDACTED] an email message that she had forgotten to put some information on her time sheet. [REDACTED] recalled that Appellant had been granted leave on one day for a family emergency and on another to attend a funeral, but that her time sheets for those days showed eight work hours. [REDACTED] concluded that Appellant was not sure how to complete a time sheet. They had a formal supervisory meeting soon thereafter. At that time, [REDACTED] reviewed the Agency's leave and hours policies with Appellant, and the need to attest to the accuracy of the hours stated on her time sheets as a part of the accountability and ethics portion of the department's performance evaluation plan. [REDACTED] showed her a performance improvement plan, her time sheets, the amendments [REDACTED] made to correct them, and the emails and phone records showing that Appellant did not work eight hours on those days. In addition to emails, records of phone calls are also used to document leave requests and work hours. Each record includes the time and date of the call. Appellant indicated to [REDACTED] that she understood the policies and procedures governing time reporting. From time to time thereafter, [REDACTED] returned Appellant's time sheets to her with amendments correcting certain errors.

Shortly after their first meeting, Appellant noticed that [REDACTED] distanced herself from her a little bit, treating others more warmly. Some time after Sept. 7<sup>th</sup>, Appellant brought to [REDACTED] a ten-page packet from her training, which asks the supervisor to record observations of the trainee's ability to complete certain tasks from training modules 1 – 10. Appellant believed it was a mandatory part of the training process. [Exh. H, Workshop 1 Supervisor Evaluation.] [REDACTED] told her they would have to schedule the review on some other day, as she was busy. The next time Appellant tried to meet with her for this purpose, [REDACTED] was out of the office. The supervisory review was never completed. [REDACTED] testified that none of her other probationary employees had ever given her a copy of the evaluation or asked her to perform the observations. Based on that, [REDACTED] did not believe the supervisor evaluation was a mandatory part of new employee training. She also noted that Appellant did not inform her of any deadline to perform the observations or complete the form.

At a pot luck lunch held on August 24, 2007 to celebrate supervisor Matthew Paris' promotion to trainer, Appellant observed that [REDACTED] totally distanced herself from her. [REDACTED] testified that Appellant sat one person away from her at the pot luck, and that they had a cordial conversation. She recalled that she later invited Appellant to participate in an office Halloween event, and Appellant emailed her acceptance with thanks for including her.

While working in the office on Fridays, Appellant was assigned to shadow her co-worker Myrna Crawford to train in various tasks. The two developed a friendship. Later, Ms. Crawford asked Appellant and all her other co-workers for a letter about whether Ms.

Crawford had ever been rude to clients. In early September, Appellant gave Ms. Crawford her letter stating that Ms. Crawford was her on-the-job trainer, and that she had never seen her being rude to clients. Ms. Crawford told Appellant she gave that letter to her attorney, who used it at an employment hearing to keep her job. ██████████ testified that on Sept. 24 she attended a pre-disciplinary meeting on Ms. Crawford, but that she never knew Appellant or any other employee had submitted a letter in support of Ms. Crawford.

Appellant's training classes included African Americans, Hispanics, Caucasians, males and females. During the classes, they were trained in benefits, policies, and CBMS, the Agency's computer system. Appellant observed that one of the trainers, Tim Webber, became frustrated with students' second-guessing of various in-class discussion scenarios, urging them to concentrate on completing the activity. One white male trainee pointed out numerous problems with the scenarios. When Appellant raised similar issues, Mr. Webber became very impatient with her. Appellant then felt singled out for negative treatment. Appellant heard that one African American woman had been disciplined for having a poor attitude and asking inappropriate questions in class. When she saw that Mr. Webber had left his evaluation of her in plain sight on his desk, she felt even more singled out. Appellant observed that Mr. Webber treated African Americans, Hispanics and females differently. Mr. Webber is Caucasian.

After that training with Mr. Webber, Appellant emailed ██████████ about some problems she saw with the module and the state training. ██████████ replied, thanking her for her input. During her office days, Appellant created a spread sheet to assist in locating client files based on their filing status, and made a form you could fill in while interviewing a client. She gave these documents to ██████████, who filed them somewhere. Others in the office told Appellant that the documents she created were very helpful. In training, Appellant often assisted other students, and was called a whiz kid for her ability to understand and complete the activities. [Testimony of Appellant.]

In late September, Mr. Webber instructed Appellant and eleven other new employees in two modules covering 2 1/2 days. His evaluation noted that Appellant was often late for class and returning from breaks. One day, she was fifteen minutes late and sat down to eat a bowl of cereal and milk instead of joining the group activity already in progress. Appellant disrupted class by allowing her cell phone to ring and taking calls, in violation of the cell phone policy he announced on the first day of class. [Exh. 4.] He testified that she was on the internet twice during class, on one occasion looking at boots. Mr. Webber cautioned her to get off the internet, and she complied.

As to Appellant's performance during class, Mr. Webber gave her one favorable evaluation, in which he commented that she was intelligent and her in-class work was excellent. In the second evaluation, which he described as negative, Mr. Webber stated that Appellant asked to work alone, pointedly looking at her assigned group partners and remarking, "I don't like negativity." Mr. Webber testified that the two partners, one of whom was Caucasian and the other Hispanic, did appear to be "somewhat disgruntled about the training process." Appellant too was "disgruntled to some extent", and

demonstrated it by often arguing to prove her exam answers correct. He explained that he was looking to test her thought process rather than a particular result, which would vary based on the facts added. Mr. Webber observed that Appellant "seems bound to either prove the exam faulty/or herself right/or both instead of being content with knowing she is approaching case scenarios in a sound and analytical way. Lynn sometimes demonstrates a poor attitude in class evident through her stating her personal feelings about governmental/agency policy." [Exh. 4; Testimony of Mr. Webber.]

Appellant admitted at hearing that she was late to some classes, and that her cell phone rang once. She explained that others were also late, and Mr. Webber never explained that cell phones were to be left off. She recalled eating her cereal during class, but said eating was permitted, since the trainers provided drinks and snacks for participants. Appellant testified that on the day she brought cereal, she jumped right into the activity with her two assigned co-workers, who immediately rejected her ideas and offered none of their own when she invited them. She then asked Mr. Webber if she could work alone, stating, "I don't like negativity."

Mr. Webber testified that the class was racially diverse. He stated that he announced the cell phone policy on the first day, and that only the types of snacks provided in class were permitted. Mr. Webber denied that he treated Appellant any different because of her race or color. He testified that he did not work directly with Ms. Glapion, and was not aware Appellant had written a letter in support of Ms. Crawford for her employment appeal, or that Ms. Crawford had been disciplined by [REDACTED]

Trainer Matthew Paris testified that he helped out another training team by completing one two-day training module designed for new employees, and Appellant was a part of that class. In his evaluation of her performance during one day of that module, Mr. Paris noted that Appellant "can perform the task", but "there is a need for her to focus on task." He clarified during his testimony that he made this comment because Appellant's attention was sometimes directed to an internet site. As to her performance, Mr. Paris noted that Appellant's result for the wrap-up activity showed a discrepancy between two outcomes, the results shown in the program and the spreadsheet, but Appellant "did not request assistance to determine why the discrepancy." Mr. Paris testified that at times Appellant seemed disinterested. He also noted that on Oct. 2nd, she was late for both the morning and afternoon sessions. [Exh. 6.]

Appellant's supervisor [REDACTED] directly supervises the TANF and Medicaid functions at the Montbello branch office. [REDACTED] made the decision to hire Appellant among a diverse group of applicants, including Hispanics, Caucasians, and other African American males and females. [REDACTED] rated Appellant a 20 out of 30 in her interview, and fellow panel member Matthew Paris rated her a 17 out of 30. She was selected as the best fit for the position, although she was not the highest scorer under their hiring criteria.

While Appellant was in training, [REDACTED] only supervisory functions were to familiarize her with office policies, and assign her to shadow another Eligibility Technician

on Appellant's Fridays in the office. [REDACTED] asked Appellant to check in with her on Fridays and tell her how things were going. On one such day, Appellant reported to [REDACTED] that she was learning a lot from the clerical staff in particular. They met in person at the beginning, and then kept in touch via email once Appellant gained the necessary security access to her computer.

On Sept. 27, 2007, [REDACTED] received an email from Mr. Webber informing the trainees' supervisors that class concluded at 11:30 a.m. that day, and students, including Appellant, were sent back to their work stations at that time. [Exh. 9.] [REDACTED] had not seen Appellant in the office that afternoon. She asked an employee to search for her. The employee reported that Appellant could not be found anywhere in the office, her computer was not on, and none of her personal belongings were at her work station. [REDACTED] concluded that Appellant had not returned to the office that day after her class was released early. Appellant did not request leave for that day, and she reported eight hours of work on her time sheet.

As a result of this email, [REDACTED] became concerned about a number of attendance issues with regard to Appellant. [REDACTED] was required to amend Appellant's time sheets more frequently than other employees. Appellant's use of sick leave was unusually high for a new employee. Appellant had a balance of 16 hours of sick leave upon her termination. [Exh. F.] Appellant also used ten hours of leave without pay, which [REDACTED] considered an automatic alert of potentially serious attendance problems. She then requested all training sign-in sheets from Sept. 4<sup>th</sup> to Sept. 27<sup>th</sup>. [Exh. 9.] In an effort to determine Appellant's actual work hours, [REDACTED] examined Appellant's time sheets, emailed arrival and departures times, phone records, and training sign-in sheets. Her research showed twenty discrepancies between Appellant's time sheets and her verifiable work and training hours. She then asked payroll, human resources and training personnel to assist her to confirm Appellant's participation in training at those times. [Exh. 5.] [REDACTED] received confirmation back from them that Appellant worked the hours she reported on only five of the twenty listed dates. [Testimony of Ms. Glapion.] Appellant testified that she was present at work on all the days listed on Exh. 5, and was in training on Oct. 15 and 16, 2007, two additional days for which her attendance was questioned. [Exh. E.]

On September 27<sup>th</sup>, the same day as Mr. Webber's email about the early release from training, Mr. Webber sent [REDACTED] a copy of his negative evaluation of Appellant. [Exh. 4.] [REDACTED] was surprised by these evaluations, since she considered them inconsistent with Appellant's prior work experience. [REDACTED] noted with concern Appellant's failure to comply with classroom policies on attendance, food and use of cell phones during her training, and her unwillingness to work with others on joint projects. A few days later, [REDACTED] received Mr. Paris' negative evaluation of Appellant, which noted some of the same deficiencies. When these evaluations were combined with the emerging attendance issues, [REDACTED] came to the conclusion that Appellant was not a good fit for the Agency. [Exh. 5.] She was reluctant to terminate Appellant's probation because she had been hired to fill an immediate need to replace the only other Eligibility Technician in the office. However, [REDACTED] consulted with

human resource personnel, who told her that Appellant's continuing pattern of misreporting time sheets could be seen as falsification of records, a serious infraction of Agency rules.

Office procedure requires that employees complete their weekly time sheets by 10 a.m. every Friday. On Friday October 19, 2007 before 10 a.m., Appellant had completed her time sheet for the week listing her time for that day as eight hours. At 11 a.m., Appellant emailed acting supervisor Deborah Johnson that she needed to leave early. Ms. Johnson asked her to submit a leave slip to [REDACTED] upon Appellant's return to the office. [REDACTED] never received a request for leave from Appellant to correct the time sheet.

On Wednesday October 24, 2007, Senior Human Resources professional Deborah Arter hand-delivered to Appellant a notice that she had failed to successfully complete probation. Appellant asked Ms. Arter the reason for the action, and was told that it was based on her attendance.

Appellant filed this appeal, alleging among other things that her termination was caused by discrimination on the basis of her race and color. Appellant testified that her supervisor took this action based on her color, which she believes is darker than [REDACTED] skin color. Appellant offered in support of this conclusion that [REDACTED] belongs to a sorority that favors for membership lighter-skinned African Americans with straight hair. In her pre-hearing statement, Appellant added a charge of retaliation based upon her belief that [REDACTED] terminated her in retaliation for her letter in support of co-worker Myrna Crawford.

#### IV. ANALYSIS

##### 1. Discrimination based on race or color

A probationary employee may appeal the termination of her employment during probation on the grounds of discrimination. C.S.R. §§ 19-10 B. 1. A prima facie case of intentional discrimination is proven by evidence of 1) membership in a protected class, 2) an adverse employment action, and 3) evidence which supports an inference of discrimination. In re Ortega, CSA 81-06, 14 (4/11/07). Appellant bears the burden of proof to establish unlawful discrimination by a preponderance of the evidence. St. Mary's Honor Center v. Hicks, 509 U.S. 502, 510-512 (U.S., 1993).

Appellant has satisfied her burden to prove her membership in a protected class by evidence that she is African American. By virtue of the termination of her probation, she established that she suffered an adverse employment action. In support of her claim that the termination was caused by her race or color, Appellant testified that she experienced [REDACTED] distancing herself from her after their first meeting. Both Ms. [REDACTED] and Appellant testified that Appellant asked [REDACTED] if she was a member of Alpha Kappa Alpha, and that [REDACTED] told her she was. Appellant believes the sorority historically discriminated against African American women who were "darker

than a paper bag” and who did not have straight hair, and that the sorority still favors lighter-skinned women with straight hair for membership. Appellant testified that Ms. [REDACTED] made several comments about Appellant’s different hair styles. On the basis of this evidence, Appellant established a prima facie case of race and color discrimination.

The Agency presented the following evidence in rebuttal of the discrimination claims: Appellant was hired by [REDACTED] and Mr. Paris, both of whom are African American, three months before her termination, among a candidate pool which included Hispanics, African Americans, and one Caucasian. [REDACTED] belongs to the local chapter of Alpha Kappa Alpha, and her sorority sisters are all darker in skin tone than herself. In addition, [REDACTED] made the decision to terminate Appellant based on two business reasons: 1) Appellant received two negative training evaluations, and 2) Appellant misrepresented her work hours for about fifteen days over a six-week period.

As to the negative evaluations from her trainers, Appellant admitted the underlying behavior, but argued that others were guilty of some of the same behavior: being late to class, letting their cell phones ring, and questioning the discussion scenarios. In addition, Appellant believed Mr. Webber, who is Caucasian, singled her out for less favorable treatment based on her race. Appellant testified that Mr. Webber became impatient with her for questioning the in-class scenarios he developed to assist in illustrating various resource issues. Appellant admitted that Mr. Webber was frustrated with the entire class for what she called nit-picking the scenarios. Appellant did not dispute that she was sometimes late, and that she ate cereal, let her cell phone ring, and used the internet during class time. Appellant defended her use of the cell phone by stating Ms. Webber never told them that phones needed to be turned off. Ordinary experience at meetings of any kind would inform an employee that cell phone use is discouraged as distracting.

The evidence is undisputed that on one occasion Appellant asked to work alone, stating, “I don’t like negativity”, despite the class requirement of group work. The trainer testified that Appellant and the two students assigned to Appellant’s group all demonstrated negativity, and that others were sometimes late. Appellant did not establish that Mr. Webber himself disciplined any African American trainees. Further, Appellant admits that Mr. Paris did not discriminate against her. Mr. Paris’ evaluation noted Appellant was late to class, used the internet during class, and seemed disinterested. This corroborates Mr. Webber’s observations of Appellant’s behavior during his classes. Appellant failed to meet her burden to rebut the evidence of her many violations of reasonable class rules by any evidence that race discrimination caused her negative evaluations; for example, by evidence that trainees of other races committed as many or more violations, but nonetheless were favorably evaluated. The Agency established that Appellant’s negative training evaluations were not caused by race discrimination.

Appellant denied that she misrepresented her work hours. She admitted she left early on Oct. 5<sup>th</sup> to pick up her paycheck and did not return to the office, but that her time sheet listed eight hours of work. Appellant did not correct the time sheet because she

assumed that as a salaried employee she was to list her regular hours on the sheet, and that her supervisor would make any needed corrections. However, [REDACTED] explained time reporting in detail at their first supervisory meeting, and held another one-on-one meeting with Appellant to stress accuracy in reporting work hours a little while later when Appellant's time sheets showed eight hours despite taking four hours of leave. At the later meeting, [REDACTED] again emphasized that reporting hours that she had not worked was an ethics issue. Under the circumstances, Appellant's reliance on her own understanding that being salaried meant she did not need to accurately record her work absences is unreasonable, and contrary to the communicated rules of the Agency. Moreover, because Appellant was in training at another location, [REDACTED] would not have sufficient information to correct and record Appellant's early releases from training unless Appellant informed her of them. Appellant did not rebut Ms. Glapion's testimony that Appellant did not have a full day's training on the dates listed in Exhibit 5, the product of [REDACTED] painstaking research of Appellant's time records. Therefore, the Agency demonstrated that Appellant misreported her work hours on approximately fifteen of the dates listed on Exhibit 5. Appellant failed to establish that the termination based on the misreporting of hours was a pretext for discrimination.

Appellant's conclusion that [REDACTED] discriminated against her based on her color has two problems. [REDACTED] hired Appellant after a face-to-face interview a few months before the termination. At that time, [REDACTED] was aware of Appellant's color. If she held negative feelings against those of a darker skin color, conscious or unconscious, those negative feelings would have prevented Appellant's hire in the first place. Appellant admits that she was not discriminated against during the hiring process. Moreover, it does not seem likely that [REDACTED] would have developed a discriminatory attitude toward Appellant a short time after her hire. See In re Johnson, CSA 135-05, 5 (3/10/06), citing Vallabhapurapu v. First National Bank, 998 F. Supp.906; Lowe v J.B. Hunt Transport, Inc., 963 F.2d 173, 174-175 (7th Cir. 1992).

Appellant presented no evidence that [REDACTED] asked Appellant if she was a member of her sorority, or expressed any negative opinions about those of Appellant's race or color. In fact, Appellant and [REDACTED] are the same race, African American, and their initial conversations led Appellant to believe she had found a mentor. Even after Appellant learned [REDACTED] was a member of the sorority, she felt happy to be working for [REDACTED] as a fellow African American woman who was professionally successful.

[REDACTED] explained that she was unable to spend as much time with Appellant after their first meeting because Appellant was in training for four out of five days a week, and not out of any attempt to distance herself from her. Appellant did not rebut the Agency's reasonable explanation by any proof tending to show the difference in access was caused by her race or color.

I conclude that Appellant failed to establish by a preponderance of the evidence that her termination was based on her race or color.

2. Retaliation for protected activity

To establish a prima facie case of retaliation, an appellant must show 1) that she engaged in a protected activity, 2) she was subsequently subject to an adverse employment action, and 3) there is a causal link between the protected activity and the adverse action. In re Felix, CSA 46-07, 1 (8/23/07); Belgasem v Water Pik Techs., Inc., 457 F. Supp. 2d 1205, 1218-1219 (D. Colo. 2006).

Some time in September, Appellant provided her co-worker Myrna Crawford with a letter for her Sept. 24, 2007 pre-disciplinary meeting, which stated that Appellant had never witnessed Ms. Crawford being rude to clients. This letter constitutes an activity for which Appellant is protected from retaliation under C.S.R. § 15-105. Thereafter, on Oct. 24<sup>th</sup>, Appellant suffered an adverse employment action, termination. Appellant testified that she noticed [REDACTED] became completely distant from her at a pot luck held on Aug. 24, 2007 to celebrate Mr. Paris' promotion. Appellant believed that [REDACTED] learned of the letter she sent in support of Ms. Crawford, who was facing discipline by [REDACTED] and became angry with Appellant as a result of the letter. Appellant presented no other evidence that the termination was the result of her letter in support of Ms. Crawford.

The undisputed evidence is that Appellant noticed [REDACTED] new and more distant attitude toward her on August 24<sup>th</sup>, several days before Appellant gave her supportive letter to Ms. Crawford. [REDACTED] testified that on the day of the pre-disciplinary meeting, September 24<sup>th</sup>, she did not know Appellant wrote that letter. Appellant did not complain about [REDACTED] treatment of her at the August pot luck. Appellant failed to prove any causal relation between her protected activity and her termination. The termination was itself supported by ample evidence that Appellant misreported her work hours, and that she failed to satisfactorily perform or comply with rules during her training. Appellant did not present any evidence showing that these reasons were a pretext for retaliation. Therefore, Appellant failed to establish that her termination was taken in retaliation for her protected activity.

ORDER

Based on the foregoing findings of fact and conclusions of law, it is hereby ordered that:

1. Appellant's claims of discrimination based on her race and color are dismissed,
2. Appellant's claim of retaliation is dismissed, and
3. The Agency action of termination dated Oct. 24, 2007 is affirmed.

Done this 3rd day of March, 2008.

  
Valerie McNaughton  
Career Service Hearing Officer

