

ORDER GRANTING MOTION TO DISMISS APPEAL

IN THE MATTER OF THE APPEAL OF:

TODD NIELSEN, Appellant,

vs.

OFFICE OF ECONOMIC DEVELOPMENT, WORKFORCE DEVELOPMENT – YOUTH DIVISION,
and the City and County of Denver, a municipal corporation, Agency.

The Agency filed a motion to dismiss this appeal of the Agency's disposition of a complaint or grievance. Appellant did not respond.

On Dec. 2, 2013, Appellant filed both a complaint and a grievance. The complaint alleged he was experiencing a hostile work environment because of his disability, and that the Agency was retaliating against him. The grievance appears to claim that he has been retaliated against by ongoing harassment since July 2013 because of his request for reasonable accommodation. The emails and notes attached to the complaint indicate that the issues also involve desk and equipment assignments in August, 2013.

The Agency argues that the appeal is premature because the underlying complaint is still being investigated. It appears the Office of Human Resources treated the complaint and grievance as one matter, closed the grievance and assigned the complaint to investigation. [Agency's motion to Dismiss, Exh. 1.] The Hearing Office does not have jurisdiction of this appeal under CSR § 19-10 A.2., since the Agency has not yet disposed on Appellant's disability discrimination and retaliation complaints.

Order

Based on the foregoing, the appeal is dismissed as premature. Appellant may re-file his appeal after the Agency concludes its investigation.

DONE January 22, 2014.


Bruce A. Plotkin
Career Service Hearing Officer

I certify that, on January 22, 2014, I delivered a correct copy of this Order to the following:

Todd Nielsen, todd.nielsen@denvergov.org (via email);
City Attorney's Office, Dfiling.litigation@denvergov.org (via email);
HR Services, HRServices@denvergov.org (via email).

