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BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

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CIVIL SERVICE COMMISSION

In Re the Appeal of

**JONATHAN R. LEWIS**

Appellant

v.

**SEATTLE PUBLIC UTILITIES**  
City of Seattle

Respondent

**DECISION ON CITY'S  
PETITION FOR REVIEW OF  
HEARING EXAMINER'S  
DECISION**

**CSC APPEAL NO. 00-04-016**

This matter comes before the Commission on the City's Petition For Review of the Hearing Examiner's Decision on the City's Motion to Dismiss based on lack of timely filing. The Examiner denied said motion and ruled that the appeal was timely filed with the Commission.

The City presents the argument that the appeal cannot have been timely filed because the Appellant utilized the intra-departmental grievance procedure prior to coming to the Commission. While this is a required step prior to filing with the Commission, it resulted in the Appellant's exceeding the twenty days provided by law for filing an appeal with the Commission.

The City alleges that the law does not provide for an extension to allow for the use of the intra-departmental grievance procedure and still leave twenty days after the procedure is completed for an employee to come to the Commission. This perceived conflict in the law, however, is resolved in the Personnel Rules and the City of Seattle Employee Handbook, published by the Personnel Department.

Personnel Rule 5.8.100, Non-represented Employee Grievance Procedure, states in part:

An employee may initiate a grievance when there is a disagreement between the employee and his or her supervisor or employing unit concerning the proper application of the Personnel Rules, published personnel policies and procedures, provisions of Seattle Municipal Code Chapter 4.04, or City Charter Article XVI; except this grievance procedure shall not apply to suspensions, demotions or discharges, or to applications of the Corrective Action Process (Personnel Rule 8.3).

1 The Appellant is a qualified civil service employee who is not appealing a disciplinary action . Therefore,  
2 the appeal qualifies under the terms of this section. The Personnel Rule sets forth the entire procedure for filing  
3 such a grievance and provides the aggrieved with a procedure for bringing said grievance to the Civil Service  
4 Commission if, at the end of the procedure, the grievance is not satisfactorily resolved.

5 The rule states, in part:

6 If the employee exhausts this administrative grievance procedure and remains dissatisfied with the  
7 outcome, he or she may file an appeal with the Civil Service Commission in accordance with Seattle  
Municipal Code Section 4.04.260 [emphasis added].

8 The Personnel Rule makes it very clear that the administrative procedure must be exhausted prior to  
9 coming to the Commission. The rule does not provide for concurrent filings or for stayed appeals. Rather, it  
10 notes the order of the administrative process leading to the Commission's process with specificity. As such, the  
11 start of counting the twenty (20) days provided for coming to the Commission commences when the  
12 administrative procedures are completed.

13 This view is supported in the City of Seattle Employee Handbook which also publishes a Non-represented  
14 Employee Grievance Procedure which states in part:

15 An employee with regular status who is not exempt from civil service may initiate a grievance when he or  
16 she and his or her supervisor or employing unit disagree about the proper application of the Personnel  
17 Rules, published personnel policies and procedures, provisions of Seattle Municipal Code Chapter 4.04,  
or City Charter Article XVI.

18 It may be used by a represented employee only to the extent expressly provided for in the applicable  
19 bargaining agreement or with respect to the application of an ordinance, rule or procedure not contained  
in the applicable bargaining agreement. [emphasis added]

20 The Personnel Director or his or her representative will investigate the grievance and will make a  
21 confidential recommendation for resolution to the grievant's department head. The department head may  
22 accept or reject the Personnel Director's recommendation.

23 If the employee is not satisfied with the outcome of this grievance process, he or she may file an appeal  
24 with the Civil Service Commission. [emphasis added.]

25 It is clear from both the Personnel Rule and the Employee Handbook, that it is the intent of the law that  
the non-represented grievance procedure be used by both represented and non-represented employees as long as  
they exhaust the intradepartmental grievance procedure prior to filing an appeal with the Commission and the  
complaint is suited to this course of action.

1 This interpretation causes the potentially conflicting laws to be read harmoniously, and the Commission is  
2 in agreement with the harmonious interpretation of the laws as established in the Personnel Rules and as described  
3 in the Employee Handbook.

4 There has been no argument made by either party that the Appellant is or was in any way disqualified  
5 from utilizing the intra-departmental grievance procedure, and his department, in fact, accepted his use of the  
6 procedure for the purposes of resolving his complaints. Therefore, the argument raised by the City, that the  
7 Appellant did not timely file with the Commission is not valid because he followed the procedures that were set  
8 forth for him by the City Personnel Director, to come to the Commission.

9 The Commission also finds, however, that the internal grievance procedure was not completed. There is  
10 no evidence to suggest that the Personnel Director was contacted for a recommendation on the resolution of this  
11 issue, as provided in the Personnel Rules. It also does not appear that Department Director or the Division  
12 Director head ever made a final recommendation with respect to the resolution of this issue. These steps are  
13 required in the intra-departmental grievance procedure. Therefore, the intra-departmental grievance procedure  
14 has not been completed and, in accordance with CSCR 7.03(2) the appeal must be stayed until the process is  
15 complete.

16 Therefore the Commission hereby makes the following

17 **FINDINGS OF FACT**

- 18
- 19 1. Appellant was eligible to utilize the non-represented grievance procedure to resolve his dispute.
  - 20 2. The intra-departmental grievance procedure, as established, was not completed by the department because  
21 neither the department head nor the Personnel Director made any final recommendations and findings.

22 **CONCLUSIONS OF LAW**

- 23
- 24 1. When an employee utilizes the intra-departmental grievance procedure, the procedure must be completed, in  
25 accordance with Personnel Rule 5.8.100 prior to its being filed with the Commission.

- 1 2. An employee has twenty (20) days from the date of the final determination of the head of the employing unit  
2 to file an appeal with the Civil Service Commission.

3  
4 The Commission hereby enters the following

5 **ORDER**

- 6  
7 1. Appeal is remanded to the Department so that the intra-departmental grievance procedure can be  
8 completed in accordance with the Steps established in Personnel Rule 5.8.100.  
9  
10 2. Based on the materials submitted, the intradepartmental grievance should commence at Step 3. The  
11 Appellant shall have seven (7) days from the date of this notice to submit his grievance to the City  
12 Personnel Director . The remaining timelines shall be as established in the Personnel Rules.  
13  
14 3. The appeal may be brought to the Commission after completion of the intra-departmental grievance  
15 procedure, in accordance with the Personnel Rules.  
16  
17 4. The appeal is premature and therefore the Petition for Review is **DENIED**.  
18  
19 5. The appeal is **DISMISSED WITHOUT PREJUDICE**.

20  
21 FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

22  
23 *Ken Morgan*  
24 Ken Morgan, Chair

*Oct 5, 2001*  
Date

25  
26 *Kenneth M. Lowthian*  
27 Kenneth M. Lowthian, Commissioner

*Oct. 3, 2001*  
Date

28  
29 *Ellis Casson*  
30 Rev. Dr. Ellis Casson, Commissioner

*Oct 5, 2001*  
Date

*ABSTAIN*