

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

CARNELL THOMPSON

FILED

APPELLANT

VS.

FEB 22 2013

NO.12-085

MISSISSIPPI DEPARTMENT OF REVENUE **EMPLOYEE APPEALS BOARD**

APPELLEE

ORDER

This matter came on for hearing on February 19, 2012, in Jackson Mississippi. The Appellant, Carnell Thompson, is employed with the Mississippi Department of Revenue, Alcohol Beverage Control Division ("ABC"). On November 27, 2012, Thompson received a written reprimand for a Group Two Offense of Insubordination. Thompson grieved that written reprimand on December 12, 2012. His immediate supervisor responded to his grievance on December 19, 2012, and refused to revoke the written reprimand. Thompson immediately advanced his grievance to the next level and received a response denying him relief on December 20, 2012. On December 28, 2012, Thompson appealed his grievance to the Mississippi Employee Appeals Board ("MEAB").

The Respondent, ABC, filed a motion to dismiss Thompson's appeal on the basis that the MEAB lacked jurisdiction because Thompson failed to file his grievance in a timely fashion, and that he had failed to complete the grievance procedure with the ABC prior to filing an appeal with the MEAB.

Mississippi State Personnel Board rules provide that a grievance may be filed "within seven(7) working days of becoming aware of the cause of the complaint." Thus Thompson had until December 7, 2012, to file a grievance.

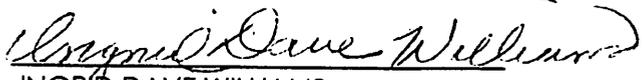
Thompson did not file his grievance until December 12, 2012. However, ABC responded to Thompson's grievance on December 19, 2012. Mississippi State Personnel Board ("MSPB") Rule 10.4 provides, with regard to grievances, that "[a]ll time limits may be extended by mutual written agreement." Although there was not an explicit agreement to extend the time limits in this matter, the fact that ABC responded to Thompson's agreement was an implicit agreement to extend the time limits for the grievance to be filed.

Once Thompson received a written response from his second level supervisor on December 20, 2012, pursuant to MSPB rule 10.5.3 A., he had three working days to forward the grievance to the agency head. Thompson failed to forward the grievance to the agency head within the required time frame, and instead appealed the matter directly to the MEAB.

MEAB Rule IV. A provides that "[n]o person may file an appeal with the Administrative Office until all applicable agency-level grievance procedures have been exhausted in accordance with MSPB policies." Since Thompson failed to exhaust the agency-level grievance procedures, the MEAB lacks jurisdiction in this matter. Accordingly, this matter must be dismissed.

SO ORDERED this the 20th day of February 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer