

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

AMARIS SHERMAN

FILED

APPELLANT

JUL 18 2013

NO. 13-038

VS.

EMPLOYEE APPEALS BOARD

MISSISSIPPI DEPARTMENT OF CORRECTIONS

RESPONDENT

ORDER OF DISMISSAL

Presently before the Mississippi Employee Appeals Board is the appeal by Amaris Sherman (hereafter "Sherman") from her termination of employment with the Mississippi Department of Corrections effective June 5, 2013. Having considered all documents in the record, the Mississippi Employee Appeals Board dismisses this case for lack of subject matter jurisdiction. The reasons for the dismissal follow.

Sherman was terminated effective June 5, 2013, by letter dated June 6, 2013. The June 6, 2013, termination of employment letter was sent to Sherman via certified mail. The certified mail slip reflects that Sherman received the June 6, 2013, termination letter on June 7, 2013.

The Mississippi Employee Appeals Board did not receive a Notice of Appeal from Sherman until June 28, 2013. That document was a handwritten note from Sherman dated June 27, 2013, stating that she had sent her appeal to the wrong address initially. In addition, Sherman submitted a second Notice of Appeal that was filed on July 11, 2013.

The Administrative Rules of the Mississippi Employee Appeals Board are clear. All employees who wish to appeal an adverse employment decision must do so within fifteen (15) days of their receipt of written notification of the adverse employment decision. Specifically, the *Mississippi State Personnel Board Policy and Procedure Manual* states as follows:

Rule 10.7.5 Perfection of Appeal by Timely Filing

- A.
- B. A Notice of Appeal must be filed within fifteen days after the date a person receives written notice of the final decision of an alleged grievable action or within fifteen days of the first attempted delivery date by certified mail, return receipt requested, whichever occurs first.

Further, Rule 10.7.7 of the *Mississippi State Personnel Board Policy and Procedure Manual* provides “When an appeal is filed, a presiding hearing officer shall determine whether or not he or she has jurisdiction. If not, the appeal shall be dismissed.”

To properly perfect an appeal of her termination, Sherman was required to file her appeal by June 23, 2013.¹

The first Notice of Appeal received and filed by the Mississippi Employee Appeals Board in Sherman’s case was Sherman’s June 28, 2013, handwritten note indicating she wished to appeal. Twenty-one (21) days elapsed from June 7, 2013 (the date Sherman received written notice of her June 6, 2013, termination from the Mississippi Department of Corrections) and the date that her appeal was filed with the Mississippi Employee Appeals Board. Accordingly, Sherman failed to timely perfect her appeal and the Mississippi Employee Appeals Board lacks subject matter jurisdiction. For the foregoing reasons, the appeal of Amaris Sherman is DISMISSED, with prejudice.

¹Fifteen days from June 7, 2013, is June 22, 2013. June 22, 2013, was a Sunday and the Mississippi Employee Appeals board was closed. Accordingly, Sherman was required to file her Notice of Appeal by 5:00 p.m. on Monday, June 23, 2013.

SO ORDERED THIS THE 18 DAY OF July, 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD

By: Michael N. Watts
MICHAEL N. WATTS
Presiding Hearing Officer