

IDAHO PERSONNEL COMMISSION
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IDAHO PERSONNEL
COMMISSION

MAY 01 2013

FILED

IDAHO PERSONNEL COMMISSION
STATE OF IDAHO

Paula L. Aldous,)	
)	
Appellant,)	IPC NO. 13-06
)	
vs.)	ORDER OF DISMISSAL
)	
Idaho Department of Correction,)	
)	
)	
Respondent.)	
_____)	

By Memorandum dated March 19, 2013, ("Letter of Disciplinary Action"), the Idaho Department of Correction, Probation and Parole Bureau, District 6 ("IDOC") terminated Paula Aldous' ("Appellant") employment for cause under IDAPA 15.04.01.190.01 a., b. and e. (DHR Rule 190.01 a., b. and e.). A copy of the Letter of Disciplinary Action is attached as Exhibit A. The Letter of Disciplinary Action provided notice of Appellant's right to appeal her termination within thirty-five (35) calendar days from the date of the letter. See Letter of Disciplinary Action, p. 6. Appellant acknowledged receipt of the Letter of Disciplinary Action by her signature and date on March 19, 2013. Letter of Disciplinary Action p. 6

Appellant appealed her termination to the Idaho Personnel Commission ("IPC"). The appeal was dated and mailed on April 24, 2013, and was physically received and filed at the office of the IPC on April 26, 2013. A copy of the appeal, including Appellant's

Exhibit List and Disclosure of Witnesses, is attached as Exhibit B. Appellant's appeal is dismissed pursuant to DHR Rule 201.04. The Commission does not have jurisdiction to entertain this appeal because it is untimely filed.

Idaho Code § 67-5316(2) provides that "[t]he decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure . . .". Idaho Code § 67-5316(2). Upon acknowledged personal receipt of the Letter of Disciplinary Action on March 19, 2013, the departmental due process procedure was completed in this case and the IPC must have physically received Appellant's appeal within thirty-five calendar days from March 19, 2013 in order for timely filing of the same. DHR Rule 201.03. Thirty-five (35) calendar days from March 19, 2013 (starting the count with March 20, 2013) is April 23, 2013.

For this reason, Appellant's appeal is hereby DISMISSED.

STATEMENT OF APPEAL RIGHTS

This decision is the final order of the Commission pursuant to IDAPA 15.04.01.201.04 (DHR Rule 201.04). Either party may appeal this decision to the District Court. A notice of appeal must be filed in the District Court within forty-two (42) days of the filing of this decision. Idaho Code § 67-5317(3).

The District Court has the power to affirm, or set aside and remand the matter to the Commission upon the following grounds, and shall not set the same aside on any other grounds:

- (1) That the findings of fact are not based on any substantial, competent evidence;

- (2) That the commission has acted without jurisdiction or in excess of its powers;
- (3) That the findings of fact by the commission do not as a matter of law support the decision. Idaho Code § 67-5318.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION



Mike Brassey, Commission Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the ORDER OF DISMISSAL in *Paula L. Aldous v. Idaho Department of Correction*, was delivered to the following parties by the method stated below on this 1st day of May 2013.

FIRST CLASS MAIL

Paula L. Aldous
4386A W. Portneuf Road
Inkom, ID 83245

STATEHOUSE MAIL

Brent Reinke
Director
Idaho Dept. of Correction



Jess Simonds
Secretary to Idaho Personnel Commission