

STATE OF IOWA
PUBLIC EMPLOYMENT RELATIONS BOARD

DEREK STANFIELD, Appellant, and STATE OF IOWA (DEPARTMENT OF PUBLIC DEFENSE), Appellee.	CASE NO.: 102801
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DECISION AND ORDER

This matter is before the Public Employment Relations Board (“PERB” or “Board”) on Appellant Derek Stanfield’s (“Stanfield”) appeal of the proposed Order Granting Motion to Dismiss issued by Administrative Law Judge Rachel D. Morgan (“ALJ”) filed on June 28, 2023.

Stanfield’s original grievance was submitted on February 13, 2023 to the Iowa Department of Administrative Services (“DAS”) and was submitted on behalf of himself as well as other Department of Public Defense Airport Firefighters. April 19, 2023 Appeal, Ex. A. Stanfield’s grievance alleged that the firefighters were being paid at an erroneous hourly rate(s) that do not reflect the advertised hourly pay per the DAS website. *Id.* The February 4, 2023 Step 1 grievance response was “This issue is beyond resolution at Step 1.” *Id.* The grievance was denied at Step 2 on February 17, 2023. *Id.* On March 27, 2023, the Iowa Department of Administrative Services rendered a Step 3 grievance decision. April 19, 2023 Appeal, Ex. B. The decision denied the grievance as being untimely filed. *Id.*

Stanfield filed his appeal of the March 27, 2023 DAS decision on April 19, 2023 with PERB pursuant to Iowa Code section 8A.415 and Iowa Administrative Code Rule 621-11.2. PERB transmitted the case to the Department of Inspections and Appeals (“DIA”). The State filed a Pre-Answer Motion to Dismiss on May 5, 2023. The Parties submitted briefs to the ALJ regarding the

issue of dismissal. The ALJ entered a proposed Order Granting Motion to Dismiss on June 28, 2023, finding the Step 1 grievance filed by Stanfield was untimely. Stanfield appealed the ALJ decision by filing a Notice of Appeal on July 13, 2023 with PERB pursuant to Iowa Administrative Code section 621-9.2. The matter was heard at Oral Argument on December 18, 2023 with Mark Hedberg arguing on behalf of Appellant Stanfield and Annie Meyer arguing on behalf of the State.

Pursuant to Iowa Code section 17A.15(3), on an appeal from an ALJ's proposed decision, the Board "has all the power which it would have had in initially making the final decision" Iowa Code § 17A.15(3) (2023). The Board may reverse or modify any finding of fact made by the ALJ if supported by a preponderance of the evidence and may reverse or modify any conclusion of law made by the ALJ that the Board finds to be in error. *Id.* Having reviewed the ALJ's Dismissal Order, the briefing of the Parties and the record, the Board adopts and affirms the ALJ's proposed Dismissal Order in full.

The undisputed facts establish that Stanfield was on notice of the change in his wages no later than September 2021 when he received his first paycheck after the implementation of Workday (the implementation of Workday by the State required Stanfield and other employees' annual salaries be divided or converted into annual working hours with Stanfield receiving a new hourly wage of \$23.25). Appeal Exs. A & B. Additionally, in August of 2021, a memorandum was sent to employees explaining the implementation of Workday and the change in wages. *Id.* Stanfield did not file his state employee grievance until February 13, 2023.

DAS Rule 61.1(1) governs the filing of non-contract grievances and requires them to be initiated within "fourteen (14) calendar days following the day the grievant first became aware of or should have through the exercise of reasonable diligence become aware of, the grievance issue." Iowa Admin. Code R. 11-61.1(1)(2023). The parties did not mutually agree to extend the time

periods governing the three-step grievance procedure. *See id.* 11-61.1(2). Failure of a grievant to undertake or proceed with a grievance step within the prescribed time limit results in the grievant waiving any right to proceed further in the grievance procedure and the grievance is considered settled. *Id.*

Stanfield bears the burden of establishing the timelines of the initial filing of the grievance. *Steinbronn and State of Iowa (Dep't of Human Servs.)*, 06-MA-07 at 12. PERB has dismissed non-contract grievances for the grievant's failure to file the initial grievance at Step 1 in a timely fashion. *Dahm and State of Iowa (Dep't of Transp.)*, 2022 ALJ 102633 at 8; *Steve Erich and State of Iowa (Dept. of Trans.) and Scott Geer and State of Iowa (Dept. of Trans.)*, 2022 WL 2208564 (May 25, 2022). Realizing this, Stanfield argues that the wage rate is a continuing violation, reoccurring every time he receives a paycheck. *See Dubuque Policemen's Protective Assoc. and City of Dubuque*, 2000 WL 35725534 (PERB May 24, 2000) (discussing the continuing violation doctrine in terms of a prohibited practice under Iowa Code Chapter 20). However, PERB has not adopted or applied the "continuing violation" doctrine in matters of state employee grievances under Iowa Code Chapter 8A. In fact, PERB has previously enforced the fourteen (14) day deadline applicable to an 8A grievance appeal relating to a grievant's compensation where the grievant received paychecks reflecting the change in pay (namely a removal of the 5% lead-work pay) and failed to file the grievance within the fourteen (14) day deadline required in Rule 11-61.1. *Steve Erich and State of Iowa (Dept. of Trans.) and Scott Geer and State of Iowa (Dept. of Trans.)*, 2022 WL 2208564 (May 25, 2022).

The grievance time limitations are mandatory and jurisdictional. *Wise and State of Iowa (Dep't of Human Servs.)*, 2015 ALJ 100006; *Rule and State of Iowa (Dep't of Human Servs.)*, 06-

MA-03 at 2-3. Accordingly, the decision of the ALJ is affirmed, the State's Motion to Dismiss is granted, and Stanfield's state employee grievance under Chapter 8A is dismissed.

ORDER

Stanfield's Chapter 8A state employee grievance appeal is DISMISSED.

DATED this 1st day of February, 2024.

PUBLIC EMPLOYMENT REALTIONS BOARD

By: /s/ Matthew Oetker
Matthew Oetker, Board Chair

/s/ Catherine Lucas
Catherine Lucas, Member