

STATE OF FLORIDA
DEPARTMENT OF JUVENILE JUSTICE

2010 MAR 12 A 11:11
DIVISION OF
ADMINISTRATIVE
HEARINGS
FILED

LILLIAN ANDERSON,)
)
Petitioner,)
)
v.)
)
DEPARTMENT OF JUVENILE)
JUSTICE,)
)
Respondent.)
_____)

DJJ NO.: 10-0007

DOAH NO.: 09-5433

FINAL ORDER DETERMINING SALARY OVERPAYMENT

This matter is now before the undersigned for issuance of final agency action in regard to the Petitioner's claim that the Department improperly determined that she received \$66.65 in salary overpayment. A formal hearing was conducted before Administrative Law Judge Patricia M. Hart on December 15, 2009.

A Recommended Order was entered on February 19, 2010, concluding that the Petitioner was overpaid in the amount of \$66.65, representing seven hours of non-compensable leave. The ALJ recommended that the Department enter a final order finding the Petitioner liable to repay \$66.65.

On March 3, 2010, the Petitioner submitted a "letter . . . in protest of the Recommended Order," which was filed within the time allotted for exceptions.

Findings of Fact

The Department adopts the "Findings of Fact" set out in paragraphs 1 through 7, 9 and 10 of the Recommended Order. Paragraph 8 is also adopted, though the amounts of available annual and sick leave referenced in the paragraph pertain to **February** 6, 2009. (See Respondent's Exhibit 6). The Recommended Order erroneously reflects the date as **January** 6, 2009, which is a date not included in the exhibit, nor germane to the dispute.

Conclusions of Law

The Department adopts the "Conclusions of Law" set out in paragraphs 11 through 15 of the Recommended Order.

Exceptions

The Petitioner submitted a "letter . . . in protest of the Recommended Order," which the undersigned interprets as exceptions. However, the Petitioner's letter does not comply with section 120.57(1)(k), Florida Statutes, in that it fails to clearly identify the disputed portion of the Recommended Order

by page and paragraph, and fails to identify the legal basis for an exception.

Moreover, the argument presented in the letter is without merit. The Petitioner asserts that four hours of sick leave and four hours of annual leave she accrued at the end of the February 2009 pay period at issue, should have been available during that period. This conflicts with Florida Administrative Code Rule 60L-34.004, as correctly interpreted by the ALJ.

The Petitioner also argues that, regardless of whether the earned leave became accessible during or after the February period, it must have been available to her by the time she ended her employment in August 2009. So, according to the Petitioner, even if she obtained an unlawful "advance" of leave in February, it should be reflected in the one hour she had as her ending balance when she left employment in August. This argument ignores Respondent's Exhibit 6, indicating that she was credited with the sick and annual leave she earned at the end of the February 2009 period, despite having already expended the leave. Consequently, the Petitioner's ending balance of one hour was, in fact, a debit of seven hours.

Based upon the foregoing it is hereby **ORDERED**:


1. The Administrative Law Judge's Findings of Fact and Conclusions of Law are adopted as set forth above.

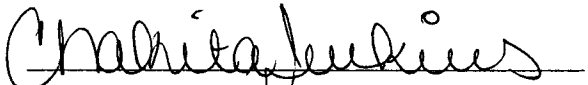
2. The Petitioner was paid \$66.65 in error, for which amount she owes the State of Florida.

Notice of Right to Judicial Review

In accordance with the provisions of section 120.68, Florida Statutes, a party who is adversely affected by this Final Order is entitled to judicial review. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing a notice of appeal with the Agency Clerk, Office of the General Counsel, 2737 Centerview Drive, Suite 3200, Tallahassee, Florida 32399-3100, and a copy, accompanied by filing fees prescribed by section 35.22, Florida Statutes, with the District Court of Appeal, First District, 301 Martin Luther King, Jr., Boulevard, Tallahassee, Florida 32399-1850, or with the District Court of Appeal in the appellate district where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.

Entered this 10 day of March, 2010, in
Tallahassee, Florida.


FRANK PETERMAN JR., Secretary
Department of Juvenile Justice


Chakita Jenkins, Agency Clerk
Filed this 10th day of
March, 2010

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