

**BEFORE THE
MERIT SYSTEM PROTECTION BOARD
FOR
MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF

[REDACTED]

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE No. 18-21

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ORDER REQUESTING DECISION

On February 7, 2018, Appellant filed this appeal with the Merit System Protection Board (MSPB or Board). Appellant is a retired firefighter challenging a reduction in her service connected disability retirement benefits. The County filed a Motion to Dismiss alleging that Appellant failed to exhaust her administrative remedies under § 33-56 of the County Code by not first requesting a written decision by the Chief Administrative Officer (CAO). Affidavits from the CAO and his executive assistant state that they do not have any recollection of receiving a request for an interpretation from Appellant, but the County’s motion and affidavits do not explicitly address any efforts made to search for electronic or paper copies of Appellant’s request.

Appellant’s opposition to the Motion to Dismiss states that her attorney mailed and emailed her request for a decision to the CAO on September 29, 2017, and then filed her appeal with the MSPB after “hearing nothing” from the CAO. In support of her opposition, Appellant submitted a copy of a September 29, 2017, email to the CAO attaching her request and indicating that it was also being sent first class mail. Appellant also submitted an affidavit from the law firm’s administrative aide stating that she mailed and emailed the documents on September 29, 2017.

On the record before us thus far, the Board concludes that the processing of Appellant’s appeal would benefit from adherence to the steps required by § 33-56 of the County Code and a written decision by the CAO. The Board will hold this appeal in abeyance until the CAO has issued a written decision. *Cf.*, MCPR § 34-9(a)(4).

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Accordingly, the Board hereby **DENIES** the Motion to Dismiss and **ORDERS** that MSPB Case No. 18-21 be held in abeyance, and that the CAO provide a written response to the appeal within 60 days of the date of this Order. Within 15 days after receiving the CAO's response, Appellant may either submit a written request that the Board resume processing her appeal or, if satisfied with the CAO's response, withdraw her appeal.

For the Board
June 7, 2018



Angela Franco
Chair