

**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. 18-30

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ORDER OF DISMISSAL

On May 24, 2018, [REDACTED] (Appellant) filed an appeal with the Merit System Protection Board (MSPB or Board), challenging a May 11, 2018 denial of employment by the Department of Police. That same day an acknowledgement letter was sent to Appellant advising him that the Board could not process the appeal until it received a copy of the notice of nonselection. The letter also referenced Montgomery County Personnel Regulation (MCPR), § 35-4(d)(3). A second letter was sent on July 11, 2018, when Appellant had failed to respond to the Board’s first letter or provide the Board with a copy of the notice of nonselection. The July 11 letter advised Appellant that if the Board had not received a notice of nonselection by August 2, 2018, an order dismissing the appeal may be issued. To date, the Board has received no response or copy of a notice of nonselection.

MCPR §35-4(d) provides that an applicant contesting a nonselection action “*must* include the following documentation with the appeal: (3) If the employee or applicant is contesting a nonselection/nonpromotion decision, a copy of the notification of nonselection/nonpromotion *must* be provided.” (emphasis added).

After being given ample opportunity, Appellant has not provided a copy of a notice of nonselection. Thus, the Board must dismiss this matter for failure to comply with established appeal procedures. MCPR § 35-7(b). Accordingly, it is hereby **ORDERED** that the appeal in Case

No. 18-30 is dismissed.¹

Pursuant to Montgomery County Code, § 33-15, *Judicial review and enforcement*, and MCPR, § 35-18, *Appeals to court of MSPB decisions*, if any party disagrees with the decision of the Merit System Protection Board they may within 30 days file an appeal with the Circuit Court for Montgomery County, Maryland, in the manner prescribed under Chapter 200, Title 7 of the Maryland Rules.

For the Board
August 9, 2018



Angela Franco
Chair

¹ Although the appeal references Appellant's belief that he is the victim of discrimination, the Board lacks jurisdiction over appeals that allege human rights violations. The Board has previously informed Appellant on several occasions that the County Code is explicit in that appeals alleging discrimination prohibited by Chapter 27 of the Code must be filed with the Human Rights Commission. Montgomery County Code, § 33-9(c). *See, e.g.*, MSPB Case No. 14-40 (2014); MSPB Case 15-04 (2015); MSPB Case No. 15-15 (2015); MSPB Case 15-31 (2015); MSPB Case No. 16-01 (2015).