HEIMO RIEDEL,

Grievant,

v. Docket No. 05-HE-271

WEST VIRGINIA UNIVERSITY,

Respondent.

D E C I S I O N

Heimo Riedel ("Grievant"), employed by West Virginia University ("WVU") as a Professor in the Department of Biochemistry and Molecular Pharmacology, filed a level one grievance on June 2, 2005, in which he alleged that he had been denied a copy of the resignation letter of a former co-worker. For relief, Grievant requested a copy of the document, and that "the steps stipulated by W. Va. Code [§] 29-6A be enforced to address any involved issue of reprisal and discrimination." The grievance was not resolved at the lower levels, and appeal to level four was made on August 4, 2005. WVU counsel Kristi A. Mc Whirter, Assistant Attorney General, filed a "Motion To Dismiss" on September 16, 2005, asserting that Grievant has received all the relief to which he is entitled. A conference call was conducted on September 27, 2005, to provide the parties an opportunity to fully address the "Motion To Dismiss".

The following facts are derived from a preponderance of the evidence made part of the lower-level record.

Findings of Fact

1. Grievant has been employed by WVU as a Professor in the Department of Biochemistry and Molecular Pharmacology at all times pertinent to this grievance. 2. On April 22, 2005, Assistant Professor Kamaleshwar Singh submitted a letter of resignation from his position at WVU, to be effective May 2, 2005. Dr. Singh had engaged in research with Grievant during the 2004-2005 academic year. Although the letter was addressed to Grievant, it was filed elsewhere in the Department.

3. On or about May 20, 2005, Grievant requested a copy of the letter, which he asserts contains information needed for his research projects.

4. Because the letter was in Dr. Singh's personnel file, Associate General Counsel Beverly Kerr denied Grievant's request because Dr. Singh had not given his written consent.

5. Grievant filed a grievance at level one on June 2, 2005, and appealed the denial to level two on June 9, 2005. At that time Dr. Diana Bettie, Department Chair, contacted Dr. Singh advising him of Grievant's request, and inquiring whether he had provided Grievant a copy of the letter.

6. Dr. Singh responded that his recollection was that he had given Grievant a copy of the letter, but that he would send another by facsimile.

7. Dr. Singh faxed Grievant a copy of the letter on June 13, 2005, and the document was hand delivered to Grievant's campus mailbox by Tammy Miller, Senior Office Administrator.

8. Grievant cannot identify any other faculty member who has been denied a document from another employee's personnel file.

9. Grievant filed grievances on October 6, 2004, November 12, 2004, and April 2005, which are presently pending at the lower-levels of the grievance procedure.

Discussion

WVU argues that because Grievant has received the document in question, any remaining issues in this matter are moot. Grievant asserts that a message must be sent to WVU to stop treating him differently, and interfering with his ability to perform the research he was hired to conduct.

Because WVU has provided the document which led to the filing of this grievance, the claims of reprisal and discrimination are now moot. There being no issues remaining for adjudication, an additional hearing on this matter is not warranted.

In addition to the foregoing findings of fact and discussion, it is appropriate to make the following formal conclusions of law.

Conclusion of Law

Because Grievant has received the document he was seeking, the remaining issues in this grievance are now moot, and require no further consideration.

Accordingly, the “Motion To Dismiss” is GRANTED.

Any party may appeal this decision to the Circuit Court of Kanawha County, or to the "circuit court of the county in which the grievance occurred." Any such appeal must be filed

within thirty (30) days of receipt of this decision. W. Va. Code § 29-6A-7 (1998). Neither the West Virginia Education and State Employees Grievance Board nor any of itsAdministrative Law Judges is a party to such appeal and should not be so named. However, the appealing party is required by W. Va. Code § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the record can be prepared and properly transmitted to the appropriate circuit court.

OCTOBER 8, 2005

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SUE KELLER

SENIOR ADMINISTRATIVE LAW JUDGE