

FRANCINE ALLEN
PRISCILLA COPELIN
OLETHA D. JARVIS
ELLA POINTER
LOLITA SMITH

Docket No.
DC07528010282

v.

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

OPINION AND ORDER

The presiding official of the Board's Washington, D.C. Field Office consolidated and dismissed the above-captioned appeals, upon finding that the appellants were serving temporary appointments of one year or less at the time they were separated, and thus were not entitled to appeal the agency's action to the Board. 5 U.S.C. 7511(a)(1)(A). Appellants petitioned for review, asserting that the presiding official erred in not assuming jurisdiction over their appeals. Appellants assert that the collective bargaining agreement entered into between the employees' union and the agency confers an appeal right to this Board and that further, 5 U.S.C. 7511 does not preclude temporary-appointment employees from the definition of "employees" for purposes of chapter 75, title 5, United States Code. These contentions have been addressed and correctly decided by the presiding official. He found that the plain language of section 7511(a)(1)(A) excludes temporary-appointment employees from the coverage of chapter 75, and that an agreement between an agency and its employees cannot serve to confer jurisdiction to the Board. 5 U.S.C. 7701(a); 5 C.F.R. 1201.3.¹

Additionally, this Board has previously held that temporary limited employees have no statutory or regulatory right of appeal to the Board. *Miles v. G.S.A.*, 2 MSPB 557 (1980).

Accordingly, the Board having fully considered appellants' petition for review of the initial decision issued on October 31, 1980, and finding that it does not meet the criteria for review set forth at 5 C.F.R. 1201.115, hereby DENIES the petition.

This is the final order of the Merit Systems Protection Board in this appeal. The initial decision shall become final five days from the date of this order. 5 C.F.R. 1201.113(b).

Appellants are hereby notified of the right to seek judicial review of the Board's action as specified in 5 U.S.C. 7703. A petition for judicial

¹He also noted that appellants had failed to show that the collective bargaining agreement did purport to provide temporary-appointment employees with the right to appeal to this Board, as argued.

review must be filed in the appropriate court no later than thirty (30) days after appellants' receipt of this order.

For the Board:

ROBERT E. TAYLOR,
Secretary.

WASHINGTON, D.C., *April 9, 1981*