

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

The appellant is hereby notified of the right under 5 U.S.C. § 7703 to seek judicial review of the Board's action by filing a petition for review in the United States Court of Appeals for the Federal Circuit, 717 Madison Place, N.W., Washington, D.C. 20439. The petition for judicial review must be filed no later than thirty (30) days after the appellant's receipt of this order.

For the Board:

ROBERT E. TAYLOR,  
*Secretary.*

WASHINGTON, D.C., *March 9, 1983*

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OPM should have considered only whether she was a dependent of her husband is incorrect. Further, although appellant correctly points out that the presiding official issued the initial decision 130 days, rather than 120, after the date of the petition for appeal, it was issued within 120 days of its receipt on April 5, 1982. Even if the decision were issued beyond the 120 days, though, the 10 day delay would provide no basis for the ruling in her favor which she has requested. See *Karapinka v. Department of Energy*, 6 MSPB 114 (1981).

ROLANDO A. ROBINSON

v.

DEPARTMENT OF COMMERCE

DOCKET No.  
DC315H8211264

OPINION AND ORDER

Having fully considered the appellant's petition for review of the initial decision issued on September 3, 1982, and finding that it does not meet the criteria for review set forth at 5 C.F.R. § 1201.115, the Board hereby DENIES the petition.<sup>1</sup>

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<sup>1</sup> Appellant's (a probationary employee) resignation in lieu of termination provided him  
(note continues)