

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
MAYTILLER EVANS,)	
Employee)	
)	OEA Matter No.: 2401-0121-09
v.)	
)	Date of Issuance: March 1, 2010
DISTRICT OF COLUMBIA)	
DEPARTMENT OF)	
PARKS & RECREATION,)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Maytiller Evans (“Employee”) worked as a Payroll Coordinator with the Department of Parks & Recreation (“Agency”). On April 24, 2009, Employee received notice that she was being terminated because of a Reduction-in-Force. Employee subsequently filed a Petition for Appeal with the Office of Employee Appeals (“OEA”).

In an Initial Decision issued on January 7, 2010, the Administrative Judge reversed Agency’s action separating Employee from service based on Agency’s failure to defend the appeal. The AJ stated that Agency failed to adhere to an Order directing the

parties to attend a January 6, 2010 Prehearing Conference.¹ Because the AJ believed that Agency failed to comply with the Order, he closed the record and issued a decision.

Agency filed a Petition for Review on February 9, 2010. Agency asks us to vacate the Initial Decision on the basis that the AJ failed to serve the designated Agency representative. According to Agency, it had no notice of the Prehearing Conference.

OEA Rule § 610.1(g) states that an agency's answer shall contain "[t]he designation of, and signature by, the authorized agency representative. If the agency fails to designate a representative, the Office shall regard the agency director as the representative." The Answer to Employee's Petition for Appeal includes a Designation of Agency Representative form.² The form designates Andrea G. Comentale, Acting Section Chief of the Personnel and Labor Relations Section, as Agency's attorney in this matter. The form also includes a complete mailing address for all correspondence directed at Agency. According to the certificate of service, the Order Scheduling Prehearing Conference was not served upon the designated Agency representative, but was instead forwarded to another attorney not listed on the Designation of Agency Representative form. Because Agency was not properly served, we must grant Agency's Petition for Review and remand this matter to the AJ for proceedings consistent with this opinion.

¹ The AJ cited OEA Rule 622.3, 46 D.C. Reg. 9313 (1999), which allows the AJ to dismiss an action if a party fails to submit required documents after being provided with a deadline for such submission.

² *Agency's Response to Employee's Petition for Appeal*, Tab F (June 29, 2009).

ORDER

Accordingly, it is hereby **ORDERED** that Agency's Petition for Review is **GRANTED** and this appeal is **REMANDED** to the Administrative Judge.

FOR THE BOARD:

Sherri Beatty-Arthur, Chair

Barbara D. Morgan

Richard F. Johns

Hilary Cairns

Clarence Labor, Jr.

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after the formal notice of the decision or order sought to be reviewed.