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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
NURY HERNANDEZ,)	
Employee)	OEA Matter No. 1601-0073-14
)	
v.)	Date of Issuance: October 6, 2015
)	
OFFICE OF UNIFIED COMMUNICATIONS,)	
Agency)	MONICA DOHNJI, Esq.
)	Administrative Judge
Alan Banov, Esq., Employee Representative		
Andrea Comentale, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On April 18, 2014, Nury Hernandez (“Employee”) filed a Petition for Appeal with the D.C. Office of Employee Appeals (“OEA” or “Office”) contesting the Office of Unified Communications’ (“OUC” or “Agency”) decision to suspend her for ten (10) days, effective April 14, 2014. Employee was suspended for violating “[a]ny on-duty or employment-related act of omission that interferes with the efficiency and integrity of government operations, specifically: Neglect of Duty...”¹ Agency submitted its Answer to Employee’s Petition for Appeal, along with a Motion for Dismissal with prejudice on June 6, 2014.

This matter was originally assigned to Administrative Judge (“AJ”) Harris. AJ Harris held several Conferences in this matter and on June 26, 2015, she issued an Order on Jurisdiction, finding that OEA had jurisdiction over this matter. Following AJ Harris’ departure from OEA, this matter was reassigned to the undersigned AJ on July 22, 2015. Upon review of the case file, and after considering the parties’ arguments as presented in their submissions to this Office, I have decided that there are no material facts in dispute, and as such, an Evidentiary Hearing is not required. The record is now closed.

JURISDICTION

OEA has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

¹ Petition for Appeal (April 18, 2014).

ISSUES

Whether Employee's Petition for Appeal should be dismissed as moot

FINDINGS OF FACTS, ANALYSIS AND CONCLUSIONS OF LAW

The following findings of facts, analysis, and conclusions of law are based on the documentary evidence presented by the parties during the course of Employee's appeal process with OEA. D.C. Official Code § 1-606.03 (2001) gives this Office the authority to review, *inter alia*, appeals from suspension for ten (10) or more days.

Here, Employee was suspended for ten (10) days effective April 14, 2014, for neglect of duty. Employee filed a Petition for Appeal with OEA with regards to this adverse action on April 18, 2014. Thereafter, OEA received Employee's Representative's Entry of Appearance on May 13, 2014. On October 8, 2014, Agency notified Employee that it had rescinded the ten (10) days suspension against her, and that it would reimburse Employee all lost wages incurred as a result of the ten (10) days suspension.

Analysis

In the instant matter, Agency has submitted documentary evidence supporting its assertion that it rescinded Employee's ten (10) days suspension on October 8, 2014, and Employee does not contest this assertion. Since the ten (10) days suspension has been reversed, this matter is moot because reversal of the ten (10) days suspension is the only remedy to which Employee could achieve were she to prevail on the merits of her appeals before this Office. There is no requirement that this Office adjudicate a matter that is moot.² Thus, I find that by rescinding the proposed adverse action against Employee, Agency has afforded Employee all the relief she could achieve were she to prevail on the merits of her appeal before this Office. I further conclude that the case no longer presents an issue in controversy and should be dismissed as moot.

ORDER

It is hereby **ORDERED** that this matter is **DISMISSED**.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

² See *Culver v. D.C. Fire Department*, OEA Matter No. 1601-0121-90 (September 10, 1990); *Opinion and Order on Petition for Review* (January 16, 1991); *Flowers v Department of Human Services*, OEA Matter No. 1601-0168-97; *Duckett v. D. C Fire Department*, OEA Matter No. 1601-0287-97 (May 8, 2000),