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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
HERMAN ODOM, JR.)	OEA Matter No. 1601-0217-04
Employee)	
)	Date of Issuance: December 2, 2005
v.)	
)	Lois Hochhauser, Esq.
UNIVERSITY OF THE DISTRICT)	Administrative Judge
OF COLUMBIA)	
Agency)	

Clarenc Martin, Esq., Agency Representative
Herman Odom, Jr., Employee

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

Employee filed a petition for appeal with the Office of Employee Appeals (OEA) on August 25, 2004, appealing Agency's decision to terminate his employment. At the time of his removal, Employee was a prevocational instructor and was in permanent career status.

On September 13, 2005 a prehearing conference was held, during which the parties agreed to a hearing date of November 15, 2005 and a beginning time of 10:00 a.m. An Order was issued on September 14, 2005 memorializing the hearing date and time.

Employee was not present at 10:00 a.m. on the hearing date and had not contacted the Administrative Judge to notify her he would be late or absent. Agency representative and Agency witnesses were present. At 10:20 a.m., the Administrative Judge telephoned Employee

at the telephone number listed in his petition for appeal. She spoke with an individual who identified herself as his mother who told the Administrative Judge that Employee had left more than an hour earlier for the proceeding,. She did not have a telephone number for Employee so the Administrative Judge asked her to ask Employee to contact the Administrative Judge at OEA. Several minutes later, Employee telephoned and told the Administrative Judge he had forgotten about the proceeding. The Administrative Judge told him she would wait to start the proceedings if he was planning to attend. Employee declined. The Administrative Judge explained that if he did not attend and did not have good cause for his failure to attend, the matter would be dismissed. She again offered to wait for him. Employee stated he was getting ready to go to a meeting, and did not plan to attend the hearing. The proceedings closed at 10:40 a.m.

On November 15, 2005, the Administrative Judge issued an Order directing Employee to show good cause why this matter should not be dismissed for failure to prosecute. Employee was notified that if he did not respond by November 28, 2005, the record would close and the matter would be dismissed without further notice. Employee did not respond. The record closed on November 28, 2005.

JURISDICTION

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

ISSUE

Should this matter be dismissed?

ANALYSIS AND CONCLUSION

This Office has long held that a petition for appeal may be dismissed with prejudice when an employee fails to prosecute the appeal pursuant to OEA Rule 622.3, 46 D.C. Reg. 9313 (1999). According to this Rule, failure to prosecute includes the failure to attend proceedings without good cause and the failure to respond to directives from presiding official. *Sec, c.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985). In this matter Employee did not attend the proceeding and then when given the opportunity to arrive late, declined to do so, although notified by the Administrative Judge that unless good cause was shown, the matter would be dismissed. Thereafter, an Order was issued directing

Employee to provide such cause by November 28, 2005. Employee did not respond to the Order. The Administrative Judge concludes that Employee failed to prosecute this appeal and that the petition should be dismissed.

ORDER

It is hereby ORDERED that the petition for appeal is DISMISSED.

FOR THE OFFICE:

Lois Hochhauser / DH
LOIS HOCHHAUSER, Esq.
Administrative Judge