

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:)	
)	
THERESA FRALEY)	
Employee)	
)	OEA Matter No.: J-0048-08
v.)	
)	Date of Issuance: December 6, 2010
D.C. PUBLIC SCHOOLS (DIVISION OF)	
TRANSPORTATION)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Theresa Fraley (“Employee”) was a Bus Attendant with the D.C. Public Schools (Division of Transportation) (“Agency”). Agency terminated Employee on January 30, 2008 and Employee filed a Petition for Appeal with the Office of Employee Appeals on February 19, 2008. The Administrative Judge issued an Order on May 19, 2008 in which she requested that Employee “provide more information in order to determine how to

proceed in this matter.”¹ The Administrative Judge cautioned Employee that if she did not submit the information by May 29, 2008, her appeal may be dismissed.

Unfortunately, Employee did not submit any information by May 29, 2008. Thus, in an Initial Decision issued June 17, 2008, the Administrative Judge dismissed Employee’s appeal. The Administrative Judge held that dismissal was proper as a result of Employee’s failure to prosecute her appeal.

Employee filed a Petition for Review on November 3, 2009. In the petition, Employee argues that she “did not receive the two letter[s] that [were] sent to [her].”² She would like her appeal to be remanded. The record is unclear as to whether Employee actually received the two letters that she references in her petition. If she did not receive the Administrative Judge’s May 19, 2008 Order, then she may also not have received the Initial Decision. Furthermore, if she did not receive the Initial Decision in the regular course of business, then it is understandable as to why the Petition for Review was filed more than a year late. Because we cannot definitively conclude that Employee received anything from this Office, we must grant her petition and remand this case for further proceedings.

¹ *Initial Decision* at 1.

² *Petition for Review*.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **GRANTED** and this case is **REMANDED** for proceedings consistent with this opinion.

FOR THE BOARD:

Clarence Labor, Jr., Chair

Barbara D. Morgan

Richard F. Johns

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 formal notice of the decision or order sought to be reviewed.