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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
TRACEY MILLER,)	
Employee)	OEA Matter No. 1601-0159-13
)	
v.)	Date of Issuance: August 8, 2014
)	
D.C. PUBLIC SCHOOLS,)	
Agency)	Eric T. Robinson, Esq.
)	Senior Administrative Judge
)	
)	

Tracey Miller, Employee
Carl K. Turpin, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On September 9, 2013, Tracey Miller (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the “Office”) contesting the District of Columbia Public Schools’ (“DCPS” or the “Agency”) action of removing her from her last position of record - Teacher. The undersigned was assigned this matter on or about May 14, 2014. Thereafter, pursuant to an Order dated May 30, 2014, I required the parties to appear for a prehearing conference on July 29, 2014. Moreover, the parties were required to submit their respective prehearing statements by July 18, 2014. DCPS fully complied with this order. However, Employee failed to submit her prehearing statement and she failed to appear for the prehearing conference. On July 29, 2014, I issued an Order for Statement of Good Cause to Employee requiring Employee to establish good cause for her prehearing conference absence and her failure to submit her prehearing statement. On August 7, 2014, Employee responded to my Order for Statement of Good Cause via email and stated *inter alia* “I am withdrawing my complaint.” After considering Employee’s response, I find that Employee has failed to establish good cause for her inability to participate in the prosecution of her appeal. I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed.

ANALYSIS AND CONCLUSION

OEA Rule 621.3, *id.*, states as follows:

If a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action or rule for the appellant. Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a scheduled proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission; or
- (c) Inform this Office of a change of address which results in correspondence being returned.

As noted above, OEA Rule 621.3 allows for a matter to be dismissed for failure to prosecute when a party does not appear for scheduled proceedings after having received notice or fails to submit required documents. Here, Employee did not appear for the prehearing conference as scheduled and she did not file her prehearing statement. I find Employee's response to my Order for Statement of Good Cause failed to reasonably explain her lack of participation in the prosecution of her appeal. All of the preceding was required for a proper resolution of this matter on its merits. Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Accordingly, I find that this matter should be dismissed due to her failure to prosecute her appeal. In addition, Employee voluntarily withdrew her petition for appeal. I find that this presents another reason why Employee's petition for appeal should be dismissed.

ORDER

It is hereby ORDERED that the above-captioned petition for appeal be dismissed.

FOR THE OFFICE:

ERIC T. ROBINSON ESQ.
Senior Administrative Judge