

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
James Brooks	)	OEA Matter No. 1601-0163-11
Employee	)	
	)	Date of Issuance: October 16, 2013
v.	)	
	)	Joseph E. Lim, Esq.
D.C. Public Schools	)	Senior Administrative Judge
Agency	)	
_____	)	
James Brooks, Employee <i>pro se</i>		
Carl Turpin, Esq., Agency Representative		

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On August 15, 2011, James Brooks (Employee) filed a petition for appeal with this Office from Agency's final decision terminating him from his position as Custodian/Maintenance Worker for receiving a performance rating of "Ineffective" for the 2010-2011 school year. The matter was assigned to the undersigned judge on or around March 29, 2013. On April 4, 2013, I ordered the parties to submit a prehearing statement and attend a prehearing conference. Employee failed to comply. Agency submitted a motion to dismiss based on the allegation that Employee had filed a grievance with his union. I issued an Order For Good Cause Statement to Employee. Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee has failed to respond. The record is closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

FINDING OF FACTS, ANALYSIS AND CONCLUSION

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), this Office has long maintained that a petition for appeal may be dismissed when an employee fails to prosecute the appeal. In this matter, Employee failed to respond to all Orders that I issued. Both had specific time frames and both contained warnings that failures to comply could result in penalties, including the dismissal of the petition. The Orders were sent to Employee at the address he listed as his home address in his petition and in his submissions. They were sent by

first class mail, postage prepaid and were not returned. They are presumed to have been delivered in a timely manner. *See, e.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).

ORDER

It is hereby ORDERED that the petition in this matter is dismissed for failure to prosecute.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.  
Senior Administrative Judge