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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

| | | |
|--|---|--------------------------------|
| _____ |) | |
| In the Matter of: |) | |
| |) | OEA Matter No.: 1601-0155-11 |
| CLARENCE MONSANTO, |) | |
| Employee |) | |
| |) | Date of Issuance: July 8, 2013 |
| v. |) | |
| |) | |
| DISTRICT OF COLUMBIA |) | |
| PUBLIC SCHOOLS, |) | |
| Agency |) | Sommer J. Murphy, Esq. |
| _____ |) | Administrative Judge |
| Clarence Monsanto, Employee, <i>Pro Se</i> | | |
| Sara White, Esq., Agency Representative | | |

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 1, 2011, Clarence Monsanto (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“the OEA” or “the Office”) contesting the District of Columbia Public School’s (“Agency” or “DCPS”) action of terminating his employment based on an “Minimally Effective” rating under Agency’s Effectiveness Assessment System for School-Based Personnel program (“IMPACT”). The effective date of Employee’s termination was August 12, 2011.

I was assigned this matter in March of 2013. On April 8, 2013, I issued an Order rescheduling a Prehearing Conference to be held at this Office on June 24, 2013 at 3:00 p.m. Counsel for Agency appeared for the conference; however, Employee did not. I subsequently issued an Order for Statement of Good Cause to Employee because he had failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish good cause on or before July 2, 2013. Employee has failed to submit a statement of good cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

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

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides that "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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to appear at a scheduled proceeding could result in sanctions as enumerated in OEA Rule 621.3. Employee failed to appear at the June 24, 2013 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before July 2, 2013 to explain his failure to submit a brief. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's petition for appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE