

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Donna West)	OEA Matter No. 1601-0166-13
Employee)	
)	Date of Issuance: February 12, 2015
v.)	
)	Joseph E. Lim, Esq.
D.C. Public Schools)	Senior Administrative Judge
Agency)	
_____)	
Donna West, Employee <i>pro se</i>		
Sara White, Esq., Agency Representative		

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On September 23, 2013, Donna West (Employee) filed a petition for appeal with this Office from Agency's final decision terminating her from her position as Teacher for receiving a performance rating of "Minimally Effective" for the 2011-2012 and 2012-2013 school years. The matter was assigned to the undersigned judge on or around May 14, 2014. I scheduled a prehearing conference for July 18, 2014, and subsequently ordered Employee to respond to Agency's contention that she had retired and thus, that this Office lacks jurisdiction over her appeal. Employee failed to comply. On January 27, 2015, 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 she listed as her home address in her petition and in her 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