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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
GETNET KASSA,)	
Employee)	OEA Matter No. 1601-0026-11
)	
v.)	Date of Issuance: February 8, 2013
)	
OFFICE OF THE STATE)	STEPHANIE N. HARRIS, Esq.
SUPERINTENDENT OF)	Administrative Judge
EDUCATION,)	
Agency)	
_____)	

Getnet Kassa, Employee *Pro-Se*
Hillary Hoffman-Peak, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On November 26, 2010, Getnet Kassa (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Office of the State Superintendent of Education’s (“Agency” or “OSSE”) decision to terminate his position as a Motor Vehicle Operator based on the charge of Neglect of Duty: failure to follow instructions or observe precautions regarding to safety; careless or negligent work habits.¹ The effective date of Employee’s termination was November 22, 2010. Agency submitted its Answer in response to Employee’s Petition for Appeal on December 29, 2010.

I was assigned this matter on July 26, 2012. On November 1, 2012, the undersigned issued an Order scheduling a Prehearing Conference for December 13, 2012. Employee’s copy of the November 1st Order was returned to this Office on November 13, 2012 marked “Return to Sender; Not Deliverable as Addressed; Unable to Forward.” On December 11, 2012, Agency made a request to reschedule the Prehearing Conference, which was granted in an Order dated December 12, 2012 (“December 12th Order”), rescheduling the Prehearing Conference for January 15, 2013 (“January 15th PHC”). Agency was present for the January 15th PHC, but

¹ See District Personnel Manual, §1619.6(c).

Employee did not appear. Subsequently, the undersigned issued an Order for Statement of Good Cause on January 17, 2013 (“January 17th Order for Statement of Good Cause”). Employee was ordered to submit a Statement of Good Cause based on his failure to appear at the scheduled Prehearing Conference. Employee’s response to the January 17th Order was due on or before February 1, 2013. Employee’s copy of the January 17th Order for Statement of Good Cause was returned to OEA on January 29, 2013 marked as “Return to Sender; Not Deliverable as Addressed; Unable to Forward.” As of the date of this decision, OEA has not received a response from Employee regarding the aforementioned Orders. There is also no record of a change of address filed by employee in this matter. Based on the record to date, I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. “Preponderance of the evidence” shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 628.2 *id.* states:

The employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 621.1 grants an Administrative Judge (“AJ”) the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal.² Additionally, OEA Rule 621.3(a)-(c), states that failure to prosecute an appeal includes, but is not limited to, a failure to:

(a) Appear at a scheduled proceeding after receiving notice;

² See OEA Rule 621.3.

- (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.

Moreover, this Office has consistently held that a matter may be dismissed for failure of parties to adhere to OEA Rule 621.3.³ Employee did not appear at the scheduled Prehearing Conference and he failed to submit a response to the January 17th Order for Statement of Good Cause. Employee's appearance at the scheduled Prehearing Conference was necessary to address pertinent issues in this matter and was required for a proper resolution of this matter on its merits. Further, both the December 12th and January 17th Orders advised Employee that failure to comply could result in sanctions, including dismissal. The undersigned concludes that Employee's failure to prosecute his appeal is a violation of OEA Rule 621. Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Accordingly, this matter should be dismissed for Employee's failure to prosecute his appeal.

ORDER

It is hereby **ORDERED** that the petition in this matter is dismissed for Employee's failure to prosecute his appeal.

FOR THE OFFICE:

STEPHANIE N. HARRIS, Esq.
Administrative Judge

³ See also *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).