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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
EMPLOYEE)	OEA Matter No. 1601-0030-21
)	
)	Date of Issuance: July 21, 2022
v.)	
)	Joseph E. Lim, Esq.
DEPARTMENT OF HUMAN SERVICES)	Senior Administrative Judge
Agency)	
_____)	
Meghan Robins, Esq., Agency representative	
Employee, <i>Pro Se</i> ¹	

INITIAL DECISION

PROCEDURAL HISTORY

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on May 21, 2021, appealing the decision of the Department of Human Services (“DHS” or “Agency”) to remove him from his position as a Social Services Representative, Grade 11/5 effective April 23, 2021, for Failure/Refusal to Follow Instructions, Neglect of Duty, and Unauthorized Absence. OEA requested Agency’s Answer on July 20, 2021, and received Agency’s Answer on August 19, 2021. This matter was initially assigned to Administrative Judge Arien Cannon on November 1, 2021, and then reassigned to the undersigned on April 4, 2022.

On May 12, 2022, Agency submitted a Motion to Compel Discovery, citing that Employee had failed to respond to any discovery requests despite repeated attempts by Agency. On May 12, 2022, I issued an Order requiring Employee to provide discovery responses to Agency no later than May 23, 2022. After a requested extension, Employee submitted his Prehearing Statement on May 25, 2022, but failed to provide discovery. I held a Prehearing Conference on May 31, 2022. At the conference, I granted Employee’s oral request for an extension to respond to Agency’s discovery requests with a new deadline of June 14, 2022. Because Employee had failed to respond to Agency’s discovery request thus far, I sanctioned Employee by disallowing his discovery request from Agency as he had more than a year to request discovery and had failed to do so. On June 16, 2022, Agency filed a Motion to Dismiss for Employee’s continued failure to provide discovery. I held a Status Conference on June 27, 2022, wherein Employee admitted that he still had not provided discovery and requested to withdraw his appeal as he felt Agency had been unethical with him. Employee stated that he planned to take his case to the District of

¹ Employee was initially represented by the law firm of Lopez & Wu, PLLC before they withdrew their representation before the status conference.

Columbia Superior Court. Employee emailed his desire to withdraw his appeal on June 27, 2022. Because Employee had been ordered to submit a signed hard copy of his withdrawal, an Order for Good Cause Statement was mailed to him on July 1, 2022. Employee failed to respond by the July 13, 2022, deadline. The record is closed.

JURISDICTION

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

ISSUE

Should the petition be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Since Employee has voluntarily withdrawn his appeal, Employee's Petition for Appeal is dismissed. There is another ground by which this appeal is to be dismissed. In accordance with OEA Rule 624.3, 6-B DCMR Ch. 600, et seq. (2021), this Office has long maintained that a petition for appeal may be dismissed with prejudice when an employee fails to prosecute the appeal. In this matter, Employee failed to respond to two Orders that I issued. Both had specific deadlines, 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 subsequent 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., Prater v. MPD*, OEA Matter No. 1601-0135-03, *Opinion and Order on Petition for Review* (November 28, 2006), and *Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985). Thus, this Petition is also being dismissed based on Employee's failure to prosecute his appeal and to comply with properly issued Orders from the undersigned.

ORDER

It is hereby ORDERED that this matter is DISMISSED with prejudice.

FOR THE OFFICE:

s/ Joseph Lim

Joseph E. Lim, Esq.

Senior Administrative Judge