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**THE DISTRICT OF COLUMBIA  
BEFORE  
THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	OEA Matter No.: 1601-0023-24
EMPLOYEE <sup>1</sup> ,	)	
Employee	)	
	)	
v.	)	Date of Issuance: November 12, 2024
	)	
D.C. DEPARTMENT OF TRANSPORTATION,	)	
Agency	)	
	)	MICHELLE R. HARRIS, ESQ.
	)	Senior Administrative Judge

Joseph F. Davis, Employee Representative  
Kathleen Miskovsky Black, Esq., Agency Representative

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On January 22, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Transportation’s (“Agency” or “DDOT”) decision to suspend him from service for ten (10) days.<sup>2</sup> The effective date of the suspension was January 4, 2024. OEA issued a letter on January 22, 2024, requiring Agency to submit an Answer to Employee’s Petition for Appeal by February 21, 2024. Agency filed its Answer as required. This matter was assigned to the undersigned Senior Administrative Judge (“AJ”) on February 21, 2024.

On February 22, 2024, I issued an Order Convening a Prehearing Conference for March 27, 2024. Prehearing Statements were due by March 20, 2024. On March 27, 2024, Employee’s representative sent email correspondence requesting to reschedule the Prehearing Conference due to illness resulting in his inability to appear. The undersigned notified the parties that given the circumstances, the email would be accepted into the record as a Motion to Continue and that the matter would be rescheduled. Accordingly, an Order was issued on March 27, 2024, rescheduling the Prehearing Conference to April 19, 2024. On March 28, 2024, Employee’s representative sent another email correspondence noting that he would be on medical leave beginning April 1, 2024, for an undetermined/extended amount of time and would be

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<sup>1</sup>Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website

<sup>2</sup> The Final Notice cited that the cause of action was based upon DPM §§1605.4(a) and 1607.2(a)(13) – Conduct prejudicial to the District of Columbia Government: Use of (or authorizing the use of ) District owned or lease vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor vehicle for use other than official purposes; and DPM §§ 1605. 4 (e) and 1607.2 (e) – Neglect of Duty.

seeking alternative representation for Employee. On April 10, 2024, I issued an Order rescheduling the Prehearing Conference to May 2, 2024, noting that an update regarding representation had not yet been forwarded to this office. Prehearing statements were due on April 25, 2024. On April 25, 2024, Agency filed its Prehearing Statement. On April 26, 2024, the undersigned initiated contact with the parties via email to determine the status of Employee's representation in this matter because there had been no updates provided by that date. As a result, on May 2, 2024, I issued an Order vacating the Prehearing Conference scheduled for May 2, 2024, and rescheduled it for May 29, 2024.

Both parties appeared for the Prehearing Conference on May 29, 2024, as required. Employee's representative provided information regarding ongoing medical challenges which would require him to be out of work until August 2024. Employee's representative also conveyed challenges with securing alternate representation for Employee.<sup>3</sup> The undersigned determined, with Agency's consent, that given the circumstances regarding Employee's representative, that this matter would be held in abeyance until August 2024, when Employee's representative returned from medical leave. That same day, I issued an Order scheduling a Prehearing Conference for August 13, 2024. Both parties appeared for the Prehearing Conference on August 13, 2024, as required. During the Conference, the undersigned issued verbal orders for the parties to submit briefs addressing the issues in this matter. Agency's brief was due on or before September 23, 2024, Employee's brief was due by October 23, 2024, and Agency had the option to submit a sur-reply brief on or before November 4, 2024. Agency filed its brief as required. Employee's brief was not submitted by the deadline. Accordingly, on October 29, 2024, I issued an Order for Employee's Brief and Statement of Good Cause. Employee's brief and statement were due by November 8, 2024. On November 6, 2024, Employee, by and through his representative, filed a Motion to Withdraw his Petition for Appeal before this Office. Employee cited therein that he no longer wished to pursue his appeal and requested that the matter be dismissed. 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 this appeal should be dismissed based upon Employee's voluntary withdrawal.

#### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

In the instant matter, Employee's filed a Motion to Withdraw his Petition for Appeal in this Office. Employee cited that he no longer wished to pursue his appeal and requested the matter be dismissed. For these reasons, I find that Employee's Petition for Appeal should be dismissed.

#### ORDER

It is hereby **ORDERED** that Employee's Motion for Withdrawal is **GRANTED** and the Petition in this matter is hereby **DISMISSED with Prejudice**.

FOR THE OFFICE:

/s/ Michelle R. Harris  
Michelle R. Harris, Esq.  
Senior Administrative Judge

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<sup>3</sup> It was noted that Employee wished to be represented for this matter.