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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

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| In the Matter of: |) | |
| EMPLOYEE ¹ |) | OEA Matter No. 1601-0016-20 |
| v. |) | Date of Issuance: September 21, 2021 |
| DISTRICT OF COLUMBIA DEPARTMENT |) | Lois Hochhauser, Esq. |
| OF MOTOR VEHICLES |) | Administrative Judge |
| Agency |) | |
| Gina Walton, Employee Representative |) | |
| Jhumur Razzaque, Esq., Agency Representative |) | |

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On December 5, 2019, Employee filed a petition with the Office of Employee Appeals (“OEA”), appealing the decision of the District of Columbia Department of Motor Vehicles (“Agency”) to terminate his employment, effective November 9, 2019. Agency filed a *Motion for Summary Disposition in Favor of the Department of Motor Vehicles or in the Alternative Dismissal of Petition* on January 3, 2020, arguing, in pertinent part, that Employee violated OEA Rule 608.4 by failing to state the reasons for his position that Agency wrongfully removed him; and that the lack of such information deprived Agency of the ability to answer the Petition for Appeal (“PFA”). Agency further asserted that it would be prejudiced, and the proceedings would be “unduly” delayed if Employee was allowed to amend the PFA.

On January 13, 2020, Employee filed *Employee’s Motion to Amend Appeal* and *Employee’s Motion in Opposition of Agency’s Motion for Summary Disposition or in the Alternative Dismissal of Petition*, contending his failure to include the reasons for his position that Agency wrongfully removed him, was due to an inadvertent error, *i.e.*, he forgot to attach certain documents to the PFA, although the PFA referred to the attachment of documents. On January 23, 2020, Agency filed *Agency’s Response to Employee’s Motion to Amend Appeal*, in which it maintained its earliest arguments.

¹ The person filing a Petition for Appeal with this Office is not identified by name, but rather by the designation “Employee,” in published decisions.

By Order dated June 18, 2020,² the Administrative Judge (“AJ”) granted Employee’s motion and denied Agency’s motions. She found that Agency would not be prejudiced, and the proceedings would not be unduly delayed if Employee was permitted to amend the PFA; but that dismissal of the appeal would deprive Employee of the right to challenge the removal, and would be an inappropriately harsh penalty for an inadvertent error, particularly a first error. She directed Employee to amend the PFA and Agency to answer the amended PFA by stated deadlines.

The parties responded with timely submissions. However, the AJ determined, for reasons detailed in the Order issued on October 20, 2020, that neither submission fully complied with her directives or with applicable OEA Rules. The parties were directed to file submissions consistent with the Order, and cautioned that failure to comply could result in the imposition of sanctions. The parties filed timely submissions. On February 24, 2021, an Order was issued scheduling oral argument for April 7, 2021. At the request of the parties, oral argument was continued. Following oral argument, conducted remotely on May 17, 2021, an Order was issued scheduling the evidentiary hearing for September 14, 2021 and setting deadlines for filing certain documents. Agency filed *Agency’s Consent Motion to Extend Discovery and Scheduling Order* on August 24, 2021, seeking an extension of the filing deadlines, explaining that the parties were “close to settling this matter.” The AJ granted the motion and extended the deadlines, by Order dated August 26, 2021.

On September 2, 2021, Employee filed *Employee’s Notice of Withdrawal of Appeal*, which states, in pertinent part, that the parties had “entered into a Settlement Agreement,” and that pursuant to its terms, Employee was “withdraw[ing] his pending petition for appeal of his termination with prejudice.” The *Notice* was signed by his representative. The record in this matter closed on September 3, 2021.

JURISDICTION

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

ISSUE

Should the petition be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

Employee’s Notice of Withdrawal of Appeal, signed by his authorized representative, states that Employee was withdrawing his PFA with prejudice, pursuant to the settlement agreement reached by the parties. D.C. Official Code §1-606.06(b) (2001) states that the AJ may dismiss a petition for appeal based on a voluntary settlement by the parties. *See. e.g., Rollins v. District of Columbia Public Schools*, OEA Matter No. J-0086-92, *Opinion and Order on Petition for Review* (December 3, 1990). The settlement agreement appears to have been entered into voluntarily by the parties. The AJ, upon review and consideration of the representations regarding settlement efforts in the August 24 consent motion and *Employee’s Notice of Withdrawal*, therefore, concludes that the matter should be dismissed pursuant to D.C. Official Code §1-606.06(b).

² Delays in this matter were primarily the result of restrictions required by the District of Columbia Government due to the COVID-19 Pandemic.

ORDER

The petition for appeal is dismissed.³

FOR THE OFFICE:

Lois Hochhauser, Esq.
Administrative Judge

³ The AJ commends the parties on their successful resolution of this matter.