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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
SHERI FOX)	OEA Matter No. 1601-0039-16
Employee)	
)	Date of Issuance: June 7, 2017
v.)	
)	Lois Hochhauser, Esq.
METROPOLITAN POLICE DEPARTMENT)	Administrative Judge
Agency)	

Ronald B. Harris, Esq., Agency Representative
Robert Deso, Esq., Employee Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

Sheri Fox, Employee, filed a petition with the Office of Employee Appeals (OEA) on March 29, 2016, appealing the decision of the D.C. Metropolitan Police Department, Agency, to demote her and impose a 15 day suspension, which was held in abeyance.

The prehearing conference (PHC), initially scheduled for July 20, 2016, was continued until December 8, 2016. At the PHC, the parties agreed to avail themselves of this Office's mediation services. By Order dated December 9, 2016, the matter was referred to mediation, and the parties were directed to submit periodic status reports.

On or about May 2, 2017, the Administrative Judge (AJ) was notified that the matter had been resolved and was provided with a copy of the Settlement Agreement. According to the first paragraph of the Agreement, Employee was required to "move to dismiss the appeal within 30 days of the execution of the Agreement." The Agreement was signed by Employee and her representative on April 3, 2017 and by Agency's Chief Operation Officer on April 19, 2017. No motion to dismiss was filed. However, by letter dated May 2, 2017, counsel for Employee stated, in pertinent part:

Pursuant to the Settlement Agreement dated April 19, 2017...this appeal may be dismissed as settled.

Since no motion was filed as required by the Settlement Agreement, the AJ issued an Order on May 4, 2017, directing Employee to file a motion to dismiss or withdraw this matter by May 22, 2017. The Order stated that the record would closed on that date and the matter would

be dismissed based on the Settlement Agreement, unless the parties were notified to the contrary. Employee did not respond to the motion, and the record was closed on May 22, 2017.

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

D.C. Official Code §1-606.06(b) (2001) provides for the dismissal of a petition for appeal when the parties enter into a voluntary settlement. *See also, Rollins v. District of Columbia Public Schools*, OEA Matter No. J-0086-92, *Opinion and Order on Petition for Review* (December 3, 1990). Employee requested, by letter, that her appeal be dismissed based on the Settlement Agreement. Since the request was not in the form of a motion, as required by the Agreement and as preferred by this AJ, and to ensure that Employee agreed to the dismissal of the appeal, an Order was issued directing Employee to file such a motion, and stating that the matter would be dismissed in accordance with the Agreement if she did not respond. Employee did not respond. The AJ concludes, for the reasons stated above, that this petition for appeal should be dismissed.

ORDER

Based on these findings and conclusions, and consistent with this analysis, the petition for appeal is dismissed.

FOR THE OFFICE:

Lois Hochhauser, Esq.
Administrative Judge