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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0208-11
RODERICK BROWN,)	
Employee)	
)	Date of Issuance: September 6, 2013
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Roderick Brown, Employee)	
Carl Turpin, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On September 6, 2011, Roderick Brown (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public School’s (“Agency” or “DCPS”) action of terminating his employment based on his receipt of a Minimally Effective rating under Agency’s Effectiveness Assessment System for School-Based Personnel program (“IMPACT”). The effective date of Employee’s termination was July 29, 2011.

I was assigned this matter in June of 2013. On June 21, 2013, I issued an Order Convening a Prehearing Conference to be held at OEA on August 12, 2013 at 2:00 p.m. Counsel for Agency appeared for the conference; however, Employee did not. I subsequently issued an Order for Statement of Good Cause to Employee because he had failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish good cause on or before September 5, 2013. Employee has failed to submit a statement of good cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

Jurisdiction in this matter has not been established.¹

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides that "if a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action or rule for the appellant." Failure of a party to prosecute an appeal includes, but is not limited to.

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

In this case, Employee was warned that the failure to appear at a scheduled proceeding could result in sanctions as enumerated in OEA Rule 621.3. Employee failed to appear at the August 12, 2013 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before September 5, 2013 to explain his failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's Petition for Appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE

¹ On August 9, 2013, the undersigned Administrative Judge issued an additional Order requiring Employee to address the issue of jurisdiction based on Agency's August 5, 2012 Motion to Dismiss. Agency argues that Employee elected to file a grievance with his union in lieu of pursuing an appeal before OEA. Employee did not submit a response to the jurisdictional order.