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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
EMPLOYEE,)	
Employee)	OEA Matter No. J-0008-26
)	
v.)	Date of Issuance: February 5, 2026
)	
D.C. DEPARTMENT OF)	
EMPLOYMENT SERVICES,)	
Agency)	ERIC T. ROBINSON, ESQ.
)	SENIOR ADMINISTRATIVE JUDGE

Employee, *Pro-Se*
Tracey A. Langley, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 24, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting the District of Columbia Department of Employment Services’ (“Agency”) removal action due to their opting not to renew her term appointment. By notice dated September 25, 2025, Employee was notified that her term appointment was set to expire on October 9, 2025, and that it was not going to be renewed. Employee’s last position of record with the Agency was Program Analyst, DS-0343-13. By letter dated October 28, 2025, Agency was instructed by the OEA’s Executive Director to file an Answer to Employee’s Petition for Appeal by November 27, 2025. On November 24, 2025, Agency timely filed its Answer. Of note, on December 29, 2025, Agency also submitted a Motion to Dismiss for lack of jurisdiction and another Motion to Dismiss for Employee’s failure to prosecute her appeal. In its various submissions, Agency argued that OEA lacks jurisdiction over the non-renewal of Employee’s term appointment. Agency also notes that Employee has not prosecuted her appeal thereby providing an additional reason as to why this matter should be dismissed.

This matter was assigned to the Undersigned Senior Administrative Judge on November 24, 2025. On that same date, the Undersigned issued an Order concerning whether the OEA may exercise jurisdiction over the instant matter. Pursuant to this Order, Employee was required to submit her written response no later than December 12, 2025. Employee did not file a response

and consequently, on January 2, 2026, the Undersigned issued an Order for Statement of Good Cause to Employee noting that she had not actively participated in this matter by timely submitting the requested documents. Through this Order, Employee was required to explain her failure to submit the required legal brief regarding jurisdiction and she was further ordered to submit her brief regarding jurisdiction. Employee's response was due by January 19, 2026. To date, the OEA has not received anything from Employee. After reviewing the documents of record, the Undersigned has determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 *id.* States:

For appeals filed under §604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Failure to Prosecute

OEA Rule 621.3, *id.*, states as follows:

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 or defend an appeal includes, but is not limited to, a failure 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.

This Office has held that a matter may be dismissed for failure to prosecute when a party fails to appear for scheduled proceedings or fails to submit required documents.¹ As noted above in this matter, Employee did not submit her brief regarding jurisdiction as was required by the Undersigned's orders on November 24, 2025, and January 2, 2026. Employee also failed to file a response to the Undersigned's Order for Statement of Good Cause. Employee's active prosecution of this matter is integral to making an informed decision regarding the facts and circumstances surrounding her Petition for Appeal. I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. I further find that Employee's inaction presents a valid basis for dismissing the instant matter. Accordingly, I find that I must dismiss this matter due to Employee's failure to prosecute her petition for appeal.

Term Appointment

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Protections Act (hereinafter "CMPA"), sets forth the law governing this Office. D.C. Official Code § 1-606.03 ("Appeal procedures") states in pertinent part that:

- (a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed Agency action.

The District Personnel Manual § 209 *et al* provides in pertinent part as follows:

209.6 An employee serving under a temporary or term appointment shall not acquire permanent status solely on the basis of their temporary or term appointment.

209.12 The employment of an individual under a temporary or term appointment shall end on the expiration date of the appointment, on the expiration date of any extension granted by the personnel authority, or upon

¹ See *David Bailey Jr. v. Metropolitan Police Department*, OEA Matter No. 1601-0007-16 (April 14, 2016).

separation prior to the specified expiration date in accordance with this section.

The jurisdiction of this Office is expressly limited to performance ratings that result in removals; final agency decisions that result in removals, reductions in grade; suspensions of ten days or more; or reductions in force. OEA Rule 604.1, 46 D.C. Reg. 9299 (1999). Based on the preceding statute, regulations, OEA rule, and related case law, this Office does not have jurisdiction over employees who serve under an expired term appointment. Based on the documents of record, I find that that Employee's term appointment expired and that the Agency opted not to renew her appointment or convert her to Career service status. I further find that Agency was under no obligation to extend her term appointment regardless of Employee's sentiments to the contrary. Because this Office lacks jurisdiction to adjudicate the instant appeal, I find that this presents another valid basis for dismissing this matter.²

ORDER

Based on the foregoing, it is hereby **ORDERED** that this matter be **DISMISSED**.

FOR THE OFFICE:

/s/ Eric T. Robinson

ERIC T. ROBINSON, Esq.
Senior Administrative Judge

² Since the Employee failed to establish the jurisdiction of this Office in this matter, I am unable to address the factual merits (if any) of any arguments that Employee noted in her petition for appeal.