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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
JAMAINE JARRETT,)	
Employee)	OEA Matter No. 1601-0066-16
)	
v.)	Date of Issuance: February 6, 2018
)	
D.C. PUBLIC SCHOOLS,)	Monica Dohnji, Esq.
)	Senior Administrative Judge
Agency)	
Jamaine Jarrett, Employee, <i>Pro Se</i>)	
Carl Turpin, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On July 26, 2016, Jamaine Jarrett (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Public Schools’ (“Agency”) decision to terminate him from his position as a Parent Coordinator, effective August 5, 2016. On September 7, 2016, Agency submitted its Answer to the Petition for Appeal.

This matter was assigned to the undersigned Senior Administrative Judge (“SAJ”) on September 9, 2016. A Prehearing/Status Conference was held on October 12, 2016.¹ Thereafter, I issued a Post Status Conference Order requiring the parties to address the issues raised during the Status/Prehearing Conference. Both parties complied with the Post Status Conference Order. Upon review of the record, the undersigned SAJ determined that additional documentation was needed to properly address the issues raised by Employee. Consequently, On June 14, 2017, the undersigned issued an Order for Additional Documentation. On June 22, 2017, Agency filed a Proposed Settlement of All Issues noting that the Chancellor granted Employee’s appeal and on June 5, 2017, Employee completed a Reinstatement Restoration Agreement, Benefit Restoration Agreement and Affidavit Covering Outside Earnings and Erroneous Payments. Additionally,

¹ The undersigned was informed during the Conference that Employee had filed an appeal which was pending with the Chancellor’s office.

Agency requested that the requirements for additional documentation as outlined in the June 14, 2017, Order be stayed and a Status Conference to determine the progress of the settlement between the parties held.²

In an Order dated July 3, 2017, the undersigned granted Agency's request, and scheduled a Status Conference for August 21, 2017. Both parties attended the Status Conference, wherein, the parties requested additional time to resolve the matter. On September 12, 2017, the undersigned SAJ issued an Order requiring the parties to submit updates of the progress of the settlement in this matter. On September 21, 2017, Agency filed a reply to the September 12, 2017, Order notifying this Office that: (1) Employee had been assigned to Luke C. Moore Academy for the 2017/2018 school year; (2) Employee's back pay documentation had been submitted to the Office of Pay and Retirement Services ("OPRS"); and (3) that Agency needed an additional 30 days for the back pay check to be processed and delivered to Employee. On November 9, 2017, Agency filed a Status Report notifying the undersigned that it needed an additional 30 days for OPRS to prepare and deliver Employee's back pay check. Following several electronic communication between the parties and the undersigned SAJ, on January 25, 2017, Agency filed a Status Report and Motion to Dismiss. Agency noted that Employee has been reinstated and he received his back pay check on December 1, 2017. Agency attached a copy of the payroll statement to the Motion.³ After considering the parties' arguments as presented in their submissions to this Office, I have decided that an Evidentiary Hearing is not required. The record is now closed.

JURISDICTION

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

ISSUE

Whether Agency's Motion to Dismiss should be granted.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to 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.

² See District of Columbia Proposed Settlement of All Issues (June 22, 2017).

³ Agency emailed a copy of its Motion to Dismiss to the undersigned on January 22, 2018. Thereafter, the undersigned contacted Employee via telephone and Employee acknowledged receipt of his full back pay and reinstatement during the telephone conversation. Employee also confirmed his email address during the telephone conversation. The undersigned forwarded the Motion to Dismiss to Employee's email address and requested that Employee respond by close of business on January 25, 2018. Employee was also notified that if he did not file an objection to the Motion by the deadline, the matter will be dismissed.

OEA Rule 628.2 *id.* states:

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 FACTS, ANALYSIS AND CONCLUSIONS OF LAW

According to OEA rule 610.3, the opposing side may file an answer to a motion within ten (10) calendar days after the service of a motion or within such time as the Administrative Judge (“AJ”) may direct for good cause shown. Here, Agency filed its Status Report and Motion to Dismiss on January 25, 2018. As of the date of this decision, Employee has not filed an Answer to the Motion. Moreover, a copy of the motion was emailed to Employee on January 22, 2018 and Employee was informed that a failure to submit a response by January 29, 2018, will result in the dismissal of this matter.

Furthermore, Agency has provided this Office with Employee’s Reinstatement Letter, as well as evidence that Employee has received his full back pay. Employee has not provided any opposition to Agency’s contention that this matter has been settled. Absent any opposition from Employee, I conclude that this matter has been resolved and Agency’s Motion to Dismiss is GRANTED.

ORDER

It is hereby **ORDERED** that the Petition for Appeal in this matter is **DISMISSED**.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Senior Administrative Judge