

Notice: This decision may be formally revised before it is published in the District of Columbia Register and the Office of Employee Appeals' website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
ADRIAN LOCKLEY,	)	
Employee	)	OEA Matter No. 1601-0020-18
	)	
v.	)	Date of Issuance: July 31, 2018
	)	
DISTRICT OF COLUMBIA	)	
DEPARTMENT OF TRANSPORTATION,	)	Monica Dohnji, Esq.
Agency	)	Senior Administrative Judge
_____	)	
Adrian Lockley, Employee, <i>Pro Se</i>		
Michael F. O'Connell, Esq., Agency's Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On January 2, 2018, Adrian Lockley ("Employee") filed a Petition for Appeal with the Office of Employee Appeals ("OEA" or "Office") contesting the District of Columbia Department of Transportation's ("Agency") decision to terminate him from his position as a Roadway Maintenance Supervisor effective December 29, 2017. Agency filed its Answer to Employee's Petition for Appeal on February 7, 2018.

Following a failed attempt to resolve this matter through mediation, it was assigned to the undersigned Senior Administrative Judge ("SAJ") on April 4, 2017. Thereafter, a Status/Prehearing Conference was convened on April 25, 2018. On April 27, 2018, I issued a Post Status/Prehearing Conference Order requiring the parties to submit briefs addressing the issues raised at the Status/Prehearing Conference. Agency's brief was due on or before June 4, 2018, and Employee's brief was due on or before July 9, 2018. While Agency timely submitted its brief, Employee did not comply with the April 27, 2018, Order. Subsequently, on July 17, 2018, I issued an Order for Statement of Good Cause, wherein, Employee was ordered to explain his failure to submit a response to the April 27, 2018, Order. Employee's response to the Show Cause Order was due on or before July 27, 2018. As of the date of this decision, Employee has not responded to either Order. The record is now closed.

## JURISDICTION

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

## ISSUE

Whether this appeal should be dismissed for failure to prosecute.

## 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.

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.

## ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 621.3, 59 DCR 2129 (March 16, 2012) grants an Administrative Judge (“AJ”) the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal.<sup>1</sup> 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* (emphasis added); or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that, failure to prosecute an appeal includes a failure to submit required documents after being provided with a deadline for such submission.<sup>2</sup> Here, Employee was warned in the April 27, 2018, and July 17, 2018, Orders that failure to comply could result in sanctions, including dismissal. Employee did not provide a written response to

---

<sup>1</sup> OEA Rule 621.3.

<sup>2</sup> *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).

either Order. These were required for a proper resolution of this matter on its merits. I find that Employee's failure to prosecute his appeal is a violation of OEA Rule 621. Accordingly, I further find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Therefore, this matter should be dismissed for his failure to prosecute.

ORDER

It is hereby **ORDERED** that this matter be **DISMISSED** for Employee's failure to prosecute his Appeal.

FOR THE OFFICE:

---

MONICA DOHNJI, Esq.  
Senior Administrative Judge