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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
OLGA HALL,)	
Employee)	OEA Matter No. J-0040-18
)	
v.)	Date of Issuance: June 13, 2018
)	
OFFICE OF RISK MANAGEMENT,)	MONICA DOHNJI, Esq.
Agency)	Senior Administrative Judge
_____)	
Olga Hall, Employee, <i>Pro Se</i>)	
Melbert Carlos, Esq., Agency's Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On March 29, 2018, Olga Hall (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Office of Risk Management’s (“Agency”) decision to allow her to resign from her position as a Registered Nurse effective March 15, 2018. On April 30, 2018, Agency filed its Answer to Employee’s Petition for Appeal, stating that Employee resigned in lieu of termination. Agency further noted that Employee was terminated during her probationary period. In addition, Agency stated that because it has granted Employee the relief she sought – rescission of the Letter of Resignation, this issue is moot, and as such, OEA does not have jurisdiction over this matter.

I was assigned this matter on May 2, 2018. Thereafter, I issued an Order on May 8, 2018, requiring Employee to address the jurisdictional issue raised by Agency in its Motion to Dismiss. Employee’s brief on jurisdiction was due on or before May 22, 2018. To date, Employee has not filed a response to the jurisdiction order. Subsequently, on May 29, 2018, I issued an Order for Statement of Good Cause, wherein, Employee was ordered to explain her failure to submit a response to the May 22, 2018, Order. Employee’s response to the Show Cause Order was due on or before June 11, 2018. As of the date of this decision, Employee has not responded to either Order. The record is now closed.

JURISDICTION

The jurisdiction of this Office, pursuant to *D.C. Official Code, § 1-606.03 (2001)*, has not been established.

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.¹ 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.² Here, Employee was warned in the May 8, 2018, and May 29, 2018, Orders that failure to comply could result in sanctions, including dismissal. Employee did not provide a written response to

¹ OEA Rule 621.3.

² *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 her 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 her failure to prosecute.

ORDER

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

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Senior Administrative Judge