

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Terri Jenkins)	OEA Matter No. 1601-0016-11
Employee)	
)	Date of Issuance: October 2, 2013
v.)	
)	Joseph E. Lim, Esq.
Office of the State Superintendent of Education)	Senior Administrative Judge
Agency)	
_____)	
Terri Jenkins, Employee <i>pro se</i>		
Erica McKinley, Esq., Agency Representative		

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On November 5, 2010, Employee filed a petition for appeal with this Office from Agency's final decision terminating her effective November 5, 2010, due to 6-B DCMR §1603.3: "Cause for disciplinary action for all employees covered under this chapter is defined as follows: (b) Conviction of a misdemeanor based on conduct relevant to an employee's position, job duties, or job activities."¹ The matter was assigned to the undersigned judge on July 26, 2012. I scheduled a prehearing conference for October 12, 2012, and ordered the submission of prehearing statements. Employee failed to submit a prehearing statement and failed to appear. I issued a Show Cause Order for Employee. Again, Employee failed to respond.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to submit any response. To date, Employee has failed to respond. The record is closed.

JURISDICTION

The Office 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.

ANALYSIS AND CONCLUSION

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), this Office has

1 October 18, 2010 Notice of Final Decision: Removal, page 1.

long maintained that a petition for appeal may be dismissed when an employee fails to prosecute the appeal. In this matter, Employee failed to respond to two Orders that I issued. Both had specific time frames and both contained warnings that failures to comply could result in penalties, including the dismissal of the petition. The Orders were sent to Employee at the address she listed as her home address in her petition and in her submissions. They were sent by first class mail, postage prepaid and were not returned. They are presumed to have been delivered in a timely manner. *See, e.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).

ORDER

It is hereby ORDERED that the petition in this matter is dismissed for failure to prosecute.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge