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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
RESIAL SHANNON)	OEA Matter No. 1601-0395-10C14
Employee)	
)	Date of Issuance: September 18, 2014
)	
DISTRICT OF COLUMBIA DEPARTMENT OF)	Lois Hochhauser, Esq.
YOUTH AND REHABILITATION SERVICES)	Administrative Judge
Agency)	
)	
)	

Resial Shannon, Employee, *Pro Se*
Eric Huang, Esq., Agency Representative

ADDENDUM DECISION ON COMPLIANCE

INTRODUCTION AND STATEMENT OF FACTS

Resial Shannon, Employee, filed a petition with the Office of Employee Appeals (OEA) on August 31, 2010, appealing the final decision of the District of Columbia Department of Youth and Rehabilitation Services, Agency, to terminate his employment. The matter was assigned to me on July 20, 2012. The prehearing conference took place on September 5, 2012 and a two day evidentiary hearing was held in November 2012. The Initial Decision was issued on May 1, 2013, and was not appealed by either party. The Decision reversed Agency’s action in removing Employee, and in pertinent part, directed Agency to reinstate him within 45 calendar days of issuance of the Decision and to notify this Office of its compliance within 60 calendar days of the issuance date of the Decision.

On November 23, 2013, Agency filed a motion asking for a status hearing. In its motion, Agency stated that despite its “good faith” efforts to comply with the Initial Decision, it could not reinstate Employee because his position was among those abolished during a reduction-in-force (RIF). Agency requested a status hearing “in order to obtain guidance regarding the tribunal’s order.” Throughout these proceedings, Eric Huang, Esq., represented Agency, and Resial Shannon acted *pro se*.

At the first status conference, which took place on January 24, 2014, Agency described the problems it experienced that resulted in its decision that it could not reinstate Employee. Employee

stated that he wanted to be reinstated and thought there were positions for which he was qualified. After discussing various alternatives, the parties agreed to work cooperatively to effect Employee's reinstatement. The next status conference took place on February 26, 2014 during which Agency stated it was still unable to reinstate Employee. Agency was directed to bring a human resources specialist to the next status conference which took place on March 24, 2014. Ms. Stephanie Good, a human resources specialist, participated in that status conference during which the parties discussed not only the existing problems but also possible solutions. Orders were issued following each status conference. At the March 24 status conference, Agency anticipated that by April 11, 2014 it would determine if Employee could be reinstated. In the March 25, 2014 Order memorializing the Order issued at the close of the status conference the day before, the parties were directed to either submit documentation that the matter was resolved or a status report by April 11, 2014. Several Orders were issued and status reports submitted following the April 11 deadline, but the matter was not resolved. Therefore, an Order was issued on August 8, 2014 scheduling a status conference for August 26, 2014.

On August 22, 2014, the parties filed a document entitled "Joint Praecipe Regarding Compliance and Request to Vacate Status Conference." In that document, signed by both Mr. Shannon and Mr. Huang, the parties stated that they "jointly agree that the compliance issue has been resolved [and request] that this tribunal close this matter as compliance has been achieved." Upon receipt of that document, I cancelled the status conference closed the record.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code §1-606.3 (2001).

ISSUE

Should this matter be closed as resolved?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

This compliance matter was initiated by Agency because its efforts to comply with an Initial Decision had not been successful and it sought guidance from this Office. The manner in which this compliance matter arrived at OEA, standing alone, lends support to Agency's contention in its initial pleading that it had acted in good faith to reinstate Employee. Many times, when the undersigned hears the phrase "good faith" in a compliance matter, it is used to support an agency's position that it made a genuine effort at compliance but that due to particular circumstances the effort was not unsuccessful and it can do nothing further. In this matter, Agency did not take that position, and its continuing efforts are noteworthy and commendable. Throughout this process, Mr. Huang continued to use his best efforts to achieve compliance. At the March proceeding, Ms. Good also demonstrated Agency's good faith efforts to comply with the Initial Decision. This Administrative Judge is aware, however, that the reason Mr. Huang and Ms. Good were able to work so diligently to achieve compliance was that Agency at its highest levels, was committed to this goal. She also recognizes that the Office of the Attorney General, at its highest levels, deserves credit for its representation which, in this matter, contributed significantly to the successful resolution of this matter.

This Administrative Judge has heard many compliance matters. They are rarely initiated by agencies seeking guidance from this Office in order to achieve compliance. Further, when subsequent efforts are unsuccessful, in the undersigned's experience, it is exceedingly rare for an agency to continue to work to achieve compliance. The Administrative Judge commends Agency and the Office of the Attorney General for the commitment to achieve compliance. Of course, Employee is to be commended as well for his time, patience and cooperation. The considerable efforts of all involved resulted in an amicable resolution rather than protracted litigation. The Administrative Judge was pleased to be part of this process.

Based on the successful resolution of this matter, the Administrative Judge concludes that this compliance matter should be dismissed.

ORDER

It is hereby

ORDERED: this compliance matter is dismissed.

FOR THE OFFICE:

LOIS HOCHHAUSER, ESQ.
Administrative Judge