

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 2401-0040-10
ERICK JACKSON,)	
Employee)	
)	Date of Issuance: January 25, 2012
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Erick Jackson, Employee, <i>Pro Se</i>		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 16, 2009, Erick Jackson (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) contesting the District of Columbia Public School’s (“Agency” or “DCPS”) action of abolishing his position through a Reduction-in-Force (“RIF”). Employee’s position of record at the time he filed this appeal was a Custodian at Montgomery Elementary School. The effective date of the RIF was November 2, 2009.

I was assigned this matter on or around November of 2011. On December 15, 2011, I issued an Order scheduling a Status Conference on January 12, 2012 at 1:00 p.m., for the purpose of assessing the parties’ arguments in reference to this appeal. Counsel for Agency appeared at the conference; however, Employee did not. Employee contacted this Administrative Judge via telephone at approximately 4:30 p.m. on the day of the Status Conference and inquired about his appeal. I informed him that he had missed the scheduled conference and would be afforded an opportunity to explain his absence in writing. I subsequently issued an Order for Statement of Good Cause on January 12, 2012, directing Employee to submit a statement of cause for his failure to appear at the Status Conference. Employee was ordered to submit a response no later than the close of business on January 23, 2012. Employee did not file a response to the Order for Statement of Good Cause.

JURISDICTION

This 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

OEA Rule 622.3, 46 D.C. Reg. at 9313 (1999) provides as follows:

If a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action or rule for the appellant. 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; or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding or fails to submit any required documents.¹ In this case, Employee was warned that the failure to appear at a scheduled conference may lead to the imposition of sanctions, including dismissal of the appeal. Employee was further afforded an opportunity to establish good cause for his failure to appear at the January 12, 2012 conference. Employee did not comply with either order. I therefore find that Employee has not exercised diligence in pursuing this appeal, thus his petition for appeal is dismissed for failure to prosecute.

ORDER

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

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE

¹ *Employee v. Agency*, OEA Matter No. 1602-0078-83 (1985); *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).