

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Administrative Assistant 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:)
)
ROBERT J. FAGELSON, II)
Employee)
)
)
v.)
)
DEPARTMENT OF)
CONSUMER AND)
REGULATORY AFFAIRS)
Agency)
_____)

OEA Matter No. 2401-0137-99

Date of Issuance: **June 16, 2003**

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee, a Special Assistant, was the subject of a reduction-in-force and filed a Petition for Appeal with this Office. On October 29, 2001, the Administrative Judge mailed to Employee's address of record an Order that set forth a schedule for a prehearing conference and that required Employee to submit a prehearing statement by a certain date. That

correspondence was returned to the Office as “unable to forward.” Thereafter, the Administrative Judge attempted to call Employee at both of the phone numbers Employee had provided. The first number was no longer in service and the Administrative Judge was informed that Employee did not live at the residence of the second number. Believing that Employee had failed to notify this Office of his new address, the Administrative Judge dismissed his appeal for failure to prosecute.

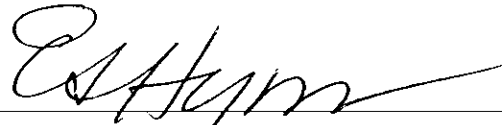
Employee filed a timely Petition for Review. In his Petition for Review Employee argues that he did not receive the October 29, 2001 Order. Further, he argues that his appeal should not have been dismissed because, according to Employee, he notified this Office before leaving this area in September 2000 of his change of address and telephone number. In support of this argument Employee attached to his Petition for Review a copy of the front of the envelope that this Office used to mail the Initial Decision to Employee on December 3, 2001. The address on this envelope is Employee’s new address.

It appears that this Office had notice of Employee’s new address. Therefore, Employee’s appeal should not have been dismissed for failure to prosecute. Accordingly, we grant Employee’s Petition for Review and remand this appeal for further proceedings consistent with this opinion.

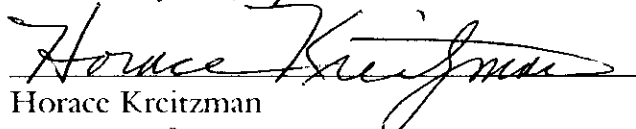
ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **GRANTED** and this matter is **REMANDED** for proceedings consistent with this opinion.

FOR THE BOARD:



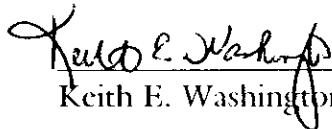
Erias A. Hyman, Chair



Horace Kreitzman



Brian Lederer



Keith E. Washington

The initial decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.