

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
KEVIN CARTER)	OEA Matter No. 1601-0076-09
Employee)	
)	Date of Issuance: November 24, 2009
v.)	
)	Rohulamin Quander, Esq.
D.C. DEPARTMENT OF)	Senior Administrative Judge
DISABILITY SERVICES)	
Agency)	
_____)	

Kevin Carter, *pro se*
Charles Tucker, Esq.
Turna R. Lewis, Esq.

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On January 30, 2009, Employee, a Service Coordinator, DS -11, Step 2, with the D.C. Department of Disability Services (the "Agency") filed a Petition for Appeal with the D.C. Office of Employee Appeals (the "Office" or "OEA"), challenging Agency's final decision, effective December 31, 2008, which advised him that Agency had elected to terminate him for cause, related to allegations of material misrepresentations and gross neglect of duty. There were itemized allegations set forth in Agency's case record.

On October 16, 2009, I issued an *Order Convening Prehearing Conference* for November 23, 2009, at 10:00 a.m. Agency, through its legal counsel, appeared. Employee, although notified of the date, time, and place of the Prehearing Conference, failed to appear. Agency moved this Administrative Judge, to dismiss Employee's appeal, for failure to prosecute his claim. The record reflects that all correspondences from this Office were sent to the Employee at his address of record, by first class regular U.S. mail. None of these documents has been returned, undelivered.

JURISDICTION

The jurisdiction of this Office, pursuant to D.C. Office Code, § 1-606.03 (2001), has been established.

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

OEA Rule § 622.3, 46 D.C. Reg. 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.

Under the rules of this Office, a failure to appear at a scheduled proceeding after receiving notice from this Office, could result in sanctions, including dismissal. Employee has failed to prosecute this appeal, which is a sound cause for this matter to be dismissed.

ORDER

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

FOR THE OFFICE:

ROHULAMIN QUANDER, ESQ.
Senior Administrative Judge