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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0235-11AF16
ROBERT TATE,)	
Employee)	
)	Date of Issuance: January 30, 2017 ¹
v.)	
)	
DISTRICT OF COLUMBIA DEPARTMENT)	
OF PARKS AND RECREATION,)	
Agency)	
_____)	Arien P. Cannon, Esq.
)	Administrative Judge
Frederic W. Schwartz, Jr., Esq., Employee Representative)	
Rahsaan J. Dickerson, Esq., Agency Representative)	

ADDENDUM DECISION ON ATTORNEY FEES

INTRODUCTION AND PROCEDURAL BACKGROUND

An Initial Decision was issued by the undersigned in this matter on April 7, 2014, upholding Agency's decision to remove Employee from his position as a Recreation Specialist. Employee filed a Petition for Review on May 1, 2014, with the Superior Court for the District of Columbia asserting that the Initial Decision was arbitrary, capricious, not supported by substantial evidence, in violation of statute and clearly erroneous as a matter of law.

On August 31, 2015, Judge Ramsey Johnson of the District of Columbia Superior Court issued an Order remanding this matter to the undersigned for further analysis as to whether Employee's position, at the time he was drug tested and regardless of job title, required that he have "direct contact with children or youth," be "entrusted with the direct care and custody of children or youth," and perform "duties in the normal course of employment [that] may affect the health, welfare, or safety of child or youth."

¹ A copy of this decision was issued on January 27, 2017, which inadvertently omitted the undersigned's signature. This copy is now being issued which contains the appropriate signature. No substantive changes were made.

On May 11, 2016, an Initial Decision on Remand was issued by the undersigned, reversing Agency's action of removing Employee from his position. This decision also required Agency to reinstate Employee to the same or comparable position prior to his termination and immediately reimburse Employee all back-pay and benefits lost as a result of his removal.

Employee faxed a Motion for Attorney Fees on July 18, 2016, to this Office.² However, it is noted that the original Motion for Attorney Fees was never received by this Office or by Agency's attorney. On October 7, 2016, Employee filed a Motion for Leave to File Request for Attorney Fees Following Agency's Compliance. Agency filed an Opposition to Employee's Motion to Leave to File Request for Attorney Fees on October 17, 2016. Employee filed a response to Agency's opposition on October 20, 2016. A decision regarding the Motion for Attorney Fees and the Motion for Leave to File Request for Attorney Fees was never issued by the undersigned. Fortunately, the parties were able to reach an amicable resolution regarding the attorney fees in the matter.

JURISDICTION

This Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether Employee's Petition for Attorney fees should be dismissed as a result of a Settlement Agreement.

ANALYSIS AND CONCLUSION

D.C. Official Code §1-606.06(b) (2001) states in pertinent part, that:

If the parties agree to a settlement without a decision on the merits of the case, a settlement agreement, prepared and signed by all parties, shall constitute the final and binding resolution of the appeal, and the [Administrative Judge] shall dismiss the appeal with prejudice.

Here, Employee submitted a Withdrawal of his Motion for Attorney Fees on January 25, 2017. Accordingly, Employee's Petition for Attorney's Fees shall be dismissed.

ORDER

It is hereby **ORDERED** that Employee's Petition for Attorney's Fees is **DISMISSED**.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge

² Faxed copies are generally accepted as courtesy copies.