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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0192-11
TRACEY LUCE,)	
Employee)	
)	Date of Issuance: August 15, 2013
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Tracey Luce, Employee, <i>Pro Se</i>		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 24, 2011, Tracey Luce (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) action of terminating her employment based on an “Ineffective” rating under Agency’s Effectiveness Assessment System for School-Based Personnel program (“IMPACT”). The effective date of Employee’s termination was August 12, 2011.

I was assigned this matter in June of 2013. On June 21, 2013, I issued an Order convening a Prehearing Conference to be held at this Office on August 5, 2013 at 2:00 p.m. Employee did not appear for the conference. I subsequently issued an Order for Statement of Good Cause to Employee because she had failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish good cause on or before August 13, 2013. Employee has failed to submit a statement of cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

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

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides that "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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to appear could result in sanctions as enumerated in Rule 621.3. Because Employee failed to update her address of record in writing with this Office, the June 21, 2013 Order was returned to this Office by the US Postal Service and stamped as "Return to Sender, Vacant, Unable to Forward." As such, she did not appear for the August 5, 2013 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before August 13, 2013 to explain her failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's petition for appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE