

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Antonio Price,)	OEA Matter No. 1601-0089-16
Employee)	
)	Date of Issuance: May 22, 2017
v.)	
)	Joseph E. Lim, Esq.
D.C. Public Schools,)	Senior Administrative Judge
Agency)	
_____)	
Antonio Price, Employee <i>pro se</i>		
Lynette Collins, Esq., Agency Representative		

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On September 2, 2016, Antonio Price (Employee) filed a petition for appeal with this Office from Agency's final decision terminating him from his position as Custodian for receiving a performance rating of "Developing" for the 2014-2015 and 2015-2016 school years. The matter was assigned to the undersigned judge on or around October 4, 2016.

I held a Prehearing Conference on November 16, 2016, and subsequently ordered the parties to submit a report on their desired settlement discussions. On March 30, 2017, I ordered the parties to show good cause for their failure to respond to the order by April 7, 2017. Sometime in May 2017, I left messages on the parties' respective telephone numbers requesting a response to the Show Cause Order. On May 19, 2017, Agency responded with a Good Cause Statement, indicating that it had attempted to contact Employee and his Union on multiple occasions, all to no avail. Again, Employee failed to respond. Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee has failed to respond. The record is closed.

JURISDICTION

The 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.

FINDING OF FACTS, ANALYSIS AND CONCLUSION

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), this Office has

long maintained that a petition for appeal may be dismissed when an employee fails to prosecute the appeal. In this matter, Employee failed to respond to all Orders that I issued. All had specific time frames and both contained warnings that failures to comply could result in penalties, including the dismissal of the petition. The Orders were sent to Employee at the address he listed as his home address in his petition and in his submissions. They were sent by first class mail, postage prepaid and were not returned. They are presumed to have been delivered in a timely manner. *See, e.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).

ORDER

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

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge