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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0235-11C16
ROBERT TATE,)	
Employee)	
)	Date of Issuance: November 7, 2016
v.)	
)	
DISTRICT OF COLUMBIA DEPARTMENT)	
OF PARKS RECREATION,)	
Agency)	
_____)	Arien P. Cannon, Esq.
)	Administrative Judge
Frederic W. Schwartz, Jr., Esq., Employee Representative)	
Rahsaan J. Dickerson, Esq., Agency Representative)	

ADDENDUM DECISION ON COMPLIANCE

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."

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 filed a Motion to Enforce, for Sanctions, and for Other Relief on July 25, 2016, for Agency's failure to comply with the May 11, 2016 Order. After a number of Status Conferences were held to address the outstanding compliance issues, and settlement discussions between the parties, Employee filed a Withdrawal of his Motion to Enforce, for Sanctions, and for Other Relief on November 3, 2016. The record regarding compliance 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 Motion to Enforce, for Sanctions, and for Other Relief should be dismissed based on Employee's voluntary withdrawal of said motion.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

Based on the undersigned's May 11, 2016 Order, reversing Agency's decision of terminating Employee, it was required to reinstate Employee and issue back-pay and all benefits lost as a result of his removal. As of July 25, 2016, Agency had not completely complied with this order, prompting Employee to file a Motion to Enforce. After settlement discussions between the parties, they were able to reach a resolution regarding the outstanding compliance issues. Thus, Employee filed a Withdrawal of his Motion to Enforce on November 3, 2016. Based upon Employee's withdrawal, this matter must be dismissed.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Motion to Enforce, for Sanctions, and for Other Relief is hereby **DISMISSED**.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge