

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0078-19
ROBERT KINNEY,)	
Employee)	
)	Date of Issuance: December 10, 2020
v.)	
)	ARIEN P. CANNON, ESQ.
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,)	Administrative Judge
Agency)	
_____)	
Wayne P. Williams, Esq., Employee Representative)	
Lynette Collins, Esq., Agency Representative)	

INITIAL DECISION¹

INTRODUCTION AND PROCEDURAL HISTORY

On August 16, 2019, Robert Kinney (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“Office” or “OEA”) challenging the District of Columbia Public Schools’ (“Agency”) decision to remove him from his position as a Custodian Foreman. Agency filed its Answer on September 11, 2019. I was assigned this matter on September 17, 2019.

An order convening a prehearing conference was issued on October 28, 2019, scheduling the prehearing conference for December 9, 2019. On November 13, 2019, Agency requested that the December 9, 2019 prehearing conference be rescheduled. The prehearing conference was subsequently rescheduled for December 18, 2019. Thereafter, Employee requested that the December 18, 2019 prehearing conference be continued. This request was granted, and the prehearing conference was rescheduled for January 22, 2020. Employee filed another request for continuance on January 15, 2020. The prehearing conference was ultimately held on March 5, 2020.

Agency raised a jurisdiction issued at the prehearing conference and filed a Motion to Dismiss on March 13, 2020. On April 3, 2020, Employee filed a motion for extension of time to respond to Agency’s Motion to Dismiss. Employee also requested the timeline for discovery be extended. Because of the COVID-19 pandemic, Employee was unable to resolve discovery in the timeline originally anticipated. I extended the discovery timeline to June 30, 2020, and scheduled another prehearing conference for August 3, 2020. Based upon the filings regarding

¹ This decision was issued during the District of Columbia's COVID-19 State of Emergency.

jurisdiction and the underlying merits, I held a prehearing conference on September 22, 2020, to certify the issues and approve witnesses for an evidentiary hearing.

A virtual evidentiary hearing was originally scheduled for October 27-28, 2020, via WebEx. Minutes before commencing the evidentiary hearing, the parties indicated that a settlement agreement had been reached. Accordingly, the evidentiary hearing was cancelled, and the parties were afforded time to reduce their settlement agreement to writing and have it fully executed. Prior to the execution of the settlement agreement, the undersigned was informed that the parties could not agree to certain language in the agreement that would resolve this matter. As such, the undersigned rescheduled the evidentiary hearing for December 10-11, 2020. On December 9, 2020, as a result of a fully executed settlement agreement by the parties, Employee submitted a Notice of Withdrawal and Dismissal of Appeal. The record is now closed.

ISSUE

Whether Employee's Petition for Appeal should be dismissed based on his voluntary withdrawal 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.

On December 9, 2020, a Notice of Withdrawal and Dismissal of Appeal was submitted to this Office. Accordingly, I find that Employee's Petition for Appeal should be dismissed as settled.

ORDER

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

FOR THE OFFICE:

/s/ Arien P. Cannon
ARIEN P. CANNON, ESQ.
Administrative Judge