

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Tiana Smith)	OEA Matter No. 1601-0081-11
Employee)	
)	Date of Issuance: April 24, 2013
v.)	
)	Joseph E. Lim, Esq.
Department of Corrections)	Senior Administrative Judge
_____)	
Agency)	

Tiana Smith, Employee *pro se*
Eric Huang, Esq., Agency Representative
Laura Kakuk Esq., Employee Representative

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On March 8, 2011, Employee filed a petition for appeal with this Office from Agency's final decision summarily terminating her effective January 5, 2011, due to a positive drug test. The matter was assigned to the undersigned judge on July 30, 2012. After four postponements necessitated by a hurricane and requests from the parties, I scheduled a prehearing conference for March 25, 2013. Employee failed to appear. On the same day, Employee's counsel submitted a motion to withdraw their representation, citing a lack of communication from Employee.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to submit any response. I issued an Order for Good Cause Statement to Employee asking her to explain her non-compliance. To date, 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.

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 several Orders that I issued. Each 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 she listed as her home address in her petition and in her 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