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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
JOHNATHAN LOGAN,)	
Employee)	OEA Matter No. 1601-0284-10
)	
v.)	Date of Issuance: March 1, 2013
)	
METROPOLITAN POLICE)	
DEPARTMENT,)	
Agency)	Eric T. Robinson, Esq.
)	Senior Administrative Judge
_____)	
Johnathan Logan, Employee <i>Pro-Se</i>)	
Corey Argust, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On March 19, 2010, Johnathan Logan (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) contesting the Metropolitan Police Department’s (“the Agency”) action of removing him from service. I was assigned this matter on or about July 2, 2012. On August 7, 2012, I issued an Order Convening a Prehearing Conference. The prehearing conference was originally scheduled to occur on September 27, 2012; however, on multiple occasions, Employee either orally or in writing, requested several continuances in this matter. Ultimately, the prehearing conference was set for January 24, 2013. The aforementioned order required the parties to appear for this proceeding at the OEA. On the date and time prescribed for the prehearing conference both the Agency representative and I were ready to proceed; however, Employee failed to appear. On January 24, 2013, I issued an Order for Statement of Good Cause (“Good Cause Order”) to Employee that required him to provide a good reason for his failure to appear for the prehearing conference. Employee’s response to the Good Cause Order was due on or before February 4, 2013. To date, Employee has not submitted a response to my Good Cause Order. Given the instant circumstances, I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed.

BURDEN OF PROOF

OEA Rule 628 *et al*, 59 DCR 2129 (March 16, 2012) states:

628.1 The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. Preponderance of the evidence shall mean the degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

628.2 The employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

FINDING OF FACTS, ANALYSIS, AND CONCLUSIONS

OEA Rule 621.3, *id.*, states as follows:

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 or defend an appeal includes, but is not limited to, a failure 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.

This Office has held that a matter may be dismissed for failure to prosecute when a party does not appear for scheduled proceedings after having received notice or fails to submit required documents. *See, e.g., Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C.

Reg. 1244 (1985). Here, Employee did not appear for the prehearing conference as scheduled and he did not submit a statement of good cause in an attempt to explain his inaction. All of the preceding was required for a proper resolution of this matter on its merits. Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Accordingly, I find that this matter should be dismissed.

ORDER

It is hereby ORDERED that this matter be DISMISSED due to Employee's failure to prosecute his petition for appeal.

FOR THE OFFICE:

ERIC T. ROBINSON, ESQ.
Senior Administrative Judge