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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
RODNEY FITTS,)	
Employee)	OEA Matter No. 1601-0078-13
)	
v.)	Date of Issuance: November 24, 2014
)	
D.C. METROPOLITAN POLICE)	
DEPARTMENT,)	
Agency)	Eric T. Robinson, Esq.
_____)	Senior Administrative Judge
Rodney Fitts, Employee <i>Pro-Se</i>		
Ronald Harris, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On April 18, 2013, Officer Rodney Fitts (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the “Office”) contesting the Metropolitan Police Department (“MPD” or the “Agency”) action of suspending him for 15 workdays. The undersigned was assigned this matter on or about February 25, 2014. Thereafter, pursuant to an Order dated March 4, 2014, I required the parties to appear for a prehearing conference on April 28, 2014. Moreover, the parties were required to submit their respective prehearing statements by April 17, 2014. MPD fully complied with this order. However, Employee failed to submit his prehearing statement and he failed to appear for the prehearing conference. Consequently, on April 28, 2014, I issued an Order for Statement of Good Cause to Employee requiring Employee to establish good cause for his prehearing conference absence and his failure to submit his prehearing statement. Employee submitted a response alleging that he had recently moved and that he did not receive the aforementioned Order.

Based on Employee’s response, I then issued a second Order Convening a Prehearing Conference which was held on June 16, 2014. Employee appeared but he failed to submit his prehearing statement as he was directed to do so by both Orders Convening a Prehearing Conference. During this conference, it was determined by all parties that mediation may be the

appropriate course of action in resolving this matter. Therefore, this matter was referred to the mediation department. Ultimately, mediation was unsuccessful.

The undersigned then issued an Order on September 11, 2014, wherein the parties were required to appear for a status conference on November 4, 2014. On the date of the status conference, the Agency's representative and I were ready and able to proceed. However, Employee failed to appear - again. Accordingly, I issued a second Order for Statement of Good Cause dated November 4, 2014. Pursuant to this order, Employee was required to provide good cause for his absence and he was required to submit his prehearing statement. To date, Employee has not submitted his prehearing statement but he did submit a response to my Order. As will be explained below, his response to my good cause order was inadequate. Moreover, I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed.

ANALYSIS AND CONCLUSION

Employee's response to my second Order for Statement of Good Cause was received via email on November 17, 2014. His entire explanation is as follows:

Judge Robinson:

Please forgive my failure to appear at our most recent hearing on November 4, 2014. I was on scheduled leave and out of town during that time. Additionally, I have recently been in talks with an attorney to assist me with my appeal as my work schedule has been extremely hectic and time consuming. Again, please excuse my absence. Please inform me if you are able to reschedule.

Respectfully,

Off. Rodney L. Fitts

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.

As noted above, OEA Rule 621.3 allows for a matter to 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. Here, Employee did not appear for the prehearing conference as scheduled and he did not file his prehearing statement after being instructed to do so numerous times. Moreover, my second Order for Statement of Good Cause specifically required Employee to include any documents that would buttress his good cause statement. Employee alleges that he was on approved leave. Yet, he failed to submit any sort of documentation in support thereof (e.g. signed leave slip indicating managerial approval of leave). If Employee could not attend the conference as scheduled, he was required to inform Mr. Harris and myself prior to the conference. Moreover, for a party that is before an Administrative Judge of this Office, it is required that they conduct themselves in a forthright manner; that they are punctual in appearing when required; that they timely submit documentation when directed; and when circumstances prevent them from living up to this standard they are required to inform all affected parties in a timely and expeditious manner. I find that Employee did not adhere to this standard while prosecuting his appeal before the OEA. Given all of the attendant circumstances as outlined above, I find that 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 due to his failure to prosecute his appeal.

ORDER

It is hereby ORDERED that the above-captioned petition for appeal be dismissed.

FOR THE OFFICE:

ERIC T. ROBINSON ESQ.
Senior Administrative Judge