

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
Robert Aronson)	OEA Matter No. 1601-0128-99R10
Employee)	
)	Date of Issuance: April 5, 2012
v.)	
)	Joseph E. Lim, Esq.
D.C. Fire and Emergency Medical Services)	Senior Administrative Judge
Agency)	

Kevin Turner, Esq., Agency Representative
James Maloney, Esq., Employee Representative

INITIAL DECISION

PROCEDURAL BACKGROUND

On May 28, 1999, Employee, an Emergency Medical Technician/Paramedic, filed a Petition for Appeal with the Office of Employee Appeals (OEA), challenging Agency’s final decision to terminate him, effective May 8, 1999, based on charges of misuse of District property and inexcusable neglect of duty.

In an August 17, 2004, Initial Decision (ID), Administrative Judge Sheryl Sears affirmed the charges but reduced the penalty from termination to a sixty-day suspension. The judge also ordered Agency to reinstate Employee to his position after the sixty-day suspension. Based on this ID, Agency should have placed Employee back in his former job on July 7, 1999.

On appeal, the Board upheld the Initial Decision in an Opinion and Order on Petition for Review issued on January 26, 2007. On appeal, the Superior Court of the District of Columbia affirmed the Board’s opinion on April 22, 2008.

Agency appealed the decision to the District of Columbia Court of Appeals, but withdrew its appeal on August 13, 2008. Thus, the Initial Decision ordering Agency to reduce its penalty from a termination to a sixty-day suspension became final. However, Agency failed to offer Employee his job back. On March 3, 2009, the parties engaged in settlement negotiations with the help of a mediator. However, they failed to reach an agreement.

On January 25, 2010, the OEA Board remanded this matter to settle the issue of back pay, benefits, and attorney’s fees to which Employee is entitled. I held a Prehearing Conference on February 7, 2011. Afterwards, I had the parties brief the issue of whether Employee has the

duty to mitigate his damages from July 7, 1999¹, the date Agency should have put him back to work, to August 13, 2008, the date the Initial Decision ordering Agency to reduce its penalty from a termination to a sixty-day suspension became final.

Based on the research submitted, I informed the parties that Employee does have the duty to mitigate. At this point, the parties indicated that they are willing to try mediation again. I then referred the matter to Mediator Eric Robinson.

On March 30, 2012, both sides indicated that they had settled the matter. A letter signed by Agency indicating that the parties have settled was submitted.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed.

ANALYSIS AND CONCLUSION

Since the parties have settled the matter, Employee's petition for appeal is dismissed.

ORDER

It is hereby ORDERED that the petition in this matter is dismissed.

FOR THE OFFICE:

Joseph Edward Lim, Esq.
Senior Administrative Judge

¹ Employee was removed from his position on May 9, 1999; however, Administrative Judge Sears modified the termination penalty to a 60-day suspension. Thus, the period of back pay under consideration was from July 9, 1999 through August 13, 2008.