

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
Warren Shingler	)	OEA Matter No. 1601-0167-11
Employee	)	
	)	Date of Issuance: November 13, 2013
v.	)	
	)	Joseph E. Lim, Esq.
D.C. Public Schools	)	Senior Administrative Judge
Agency	)	
_____	)	
Warren Shingler, Employee <i>pro se</i>		
Sara White, Esq., Agency Representative		

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On August 15, 2011, Warren Shingler (Employee) filed a petition for appeal with this Office from Agency's final decision terminating him from his position as Custodian for receiving a performance rating of "Ineffective" for the 2010-2011 school year. The matter was assigned to the undersigned judge on or around March 29, 2013. On April 4, 2013, I ordered the parties to submit a prehearing statement and attend a prehearing conference. Employee failed to comply. I issued an Order For Good Cause Statement to Employee. Despite prior warnings that failure to comply could result in sanctions, including dismissal; 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.

FINDING OF FACTS, 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 all Orders that I issued. All 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 he listed as his home address in his petition and in his submissions. They were sent by first class mail, postage prepaid and were returned. However, in defiance of OEA Rule 608.5, 59

DCR 2129 (March 16, 2012), Employee never submitted a change of address in writing. Based on said rule, Employee has waived any right to notice and service, and may result in the appeal being dismissed.

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