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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
DAVID NEWMAN,)	
Employee)	OEA Matter No. 2401-0026-10
)	
v.)	Date of Issuance: December 2, 2011
)	
D.C. PUBLIC SCHOOLS,)	MONICA DOHNJI, Esq.
Agency)	Administrative Judge
_____)	
David Newman, Employee <i>Pro Se</i>		
Bobbie Hoyes, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On October 8, 2009, David Newman (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the D.C. Public Schools’ (“Agency”) action of abolishing his position as a Custodial Foreman through a Reduction-In-Force (“RIF”).

I was assigned this matter on or around October 21, 2011. Thereafter, on October 21, 2011, I issued an Order directing the parties to attend a Status Conference set for November 9, 2011. The Order specifically noted that if either party did not appear at the Status Conference, sanctions may be imposed pursuant to OEA Rule 622.3, 46 D.C. Reg. at 9313. Agency complied, but Employee did not. Subsequently on November 9, 2011, I issued an Order for Statement of Good Cause to Employee. Employee was ordered to submit a statement of cause based on his failure to attend the Status Conference. Employee had until November 25, 2011, to respond. As of today’s date, Employee has not responded to this Order. 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 appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

OEA Rule 622.3, 46 D.C. Reg. at 9313 (1999) provides as follow:

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 fails to appear at a scheduled proceeding or fails to submit required documents.¹ Here, Employee was warned in each Order that failure to comply could result in sanctions including dismissal. Employee did not appear at the Status Conference, and did not provide a written response to my Order for Statement of Good Cause. Both were required for a proper resolution of this matter on its merit. I conclude that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and that therefore, the matter should be dismissed for his failure to prosecute.

ORDER

It is hereby **ORDERED** that the petition in this matter is dismissed for Employee's failure to prosecute his Appeal.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

¹ *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010), ___ D.C. Reg. ___ (); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010), ___ D.C. Reg. ___ ().