

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
GEORGE MARSHALL,)	
Employee)	OEA Matter No. J-0037-15
)	
v.)	Date of Issuance: March 24, 2015
)	
DEPARTMENT OF PUBLIC WORKS,)	
Agency)	
)	
)	
)	Arien Cannon, Esq.
)	Administrative Judge
_____)	
George Marshall, Pro se		
Christine Davis, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On January 23, 2015, George Marshall (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) challenging the Department of Public Works’ decision to suspend him for seven days from his position as a Landscape Gardener Equipment Helper. The effective date of Employee’s suspension was January 12, 2015.

I was assigned this matter on February 4, 2015. Agency filed a Motion to Dismiss on February 20, 2015. Upon consideration of Agency’s motion and based on an initial review of the file, an Order on Jurisdiction was issued on February 23, 2015, for Employee to provide his argument for this Office to exercise jurisdiction over her appeal. Employee’s response to the Order on Jurisdiction was due by March 10, 2015. A Show Cause Order was issued on March 13, 2015 for Employee’s failure to respond to the Order on Jurisdiction and also required Employee to provide a statement of good cause for failing to respond to the jurisdiction order. Employee had until March 20, 2015, to respond to the Show Cause Order. To date, Employee has not responded to the Order on Jurisdiction nor the Show Cause Order. The record is now closed.

JURISDICTION

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

ANALYSIS AND CONCLUSION

An Order on Jurisdiction was issued on February 23, 2015, which gave Employee until March 10, 2105, to file his response. A Show Cause Order was issued on March 13, 2015 for Employee's failure to respond to the Order on Jurisdiction. To date, Employee has failed to respond to both the Order on Jurisdiction and the Show Cause Order.

On February 20, 2015, Agency filed a Motion to Dismiss for Lack of Jurisdiction. In its motion, Agency asserts that Employee's seven day suspension, a corrective action as defined in 1604.1 of the District Personnel Manual, limits Employee's right in filing with this Office. D.C. Official Code § 1-606.03 reads in pertinent part as follows:

- (a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or **suspension for 10 days or more** (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue.

Accordingly, I find that Employee's appeal of his seven day suspension does not fall under the jurisdiction of this Office.

ORDER

It is hereby **ORDERED** that Employee's Petition for Appeal is hereby **DISMISSED** with prejudice.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge