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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
PAULA LAGRAN,)	
Employee)	OEA Matter No. 1601-0127-12
)	
v.)	Date of Issuance: November 25, 2013
)	
DISTRICT OF COLUMBIA METROPOLITAN)	
POLICE DEPARTMENT,)	MONICA DOHNJI, Esq.
Agency)	Administrative Judge
)	

Paula LaGrand, Employee *Pro Se*
Ronald B. Harris, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On June 29, 2011, Paula LaGrand (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Metropolitan Police Department’s (“Agency” or “MPD”) decision to suspend her for thirty (30) days from her position as a Lieutenant effective May 30, 2012. Employee was suspended for prejudicial conduct. Employee argued that the thirty (30) day suspension was extremely excessive and that Agency should not have imposed such a harsh penalty for the offense. On August 2, 2012, Agency submitted its Answer, along with a Motion to Dismiss on the grounds that Agency met its burden of proof because Employee admitted to the offenses charged. Furthermore, Agency argued that Employee’s thirty (30) day suspension was reasonable under the circumstances.

Following a failed mediation attempt, this matter was assigned to the undersigned Administrative Judge (“AJ”) in October of 2013. Subsequently, on October 9, 2013, I issued an Order requiring both parties to submit briefs. In that Order, Employee was required to submit her brief on November 6, 2013. Following Employee’s failure to submit her brief by the required deadline, on November 12, 2013, I issued an Order for Statement of Good Cause to Employee. Pursuant to that Order, Employee was required to submit a statement of good cause based on her failure to submit her brief. Employee’s response to the November 12, 2013 Order was due

November 19, 2013. Although Employee was given ample warnings that failure to comply could result in sanctions, including dismissal; as of the date of this decision, Employee has not responded to either Order. The record is now closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. “Preponderance of the evidence” shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 628.2 *id.* states:

The employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 621.1 grants an AJ the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal.¹ 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.

¹ *Id.* at 621.3.

I find that Employee's failure to prosecute her appeal is consistent with the language of OEA Rule 621. Moreover, this Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to submit required documents.² In the instant matter, Employee did not file her brief as was required by the October 9, 2013, Order. Furthermore, Employee failed to provide a response to the November 12, 2013, Order for Statement of Good Cause. These actions were required for a proper resolution of this matter on its merits. Employee was notified of the specific repercussions of failing to submit required documents. Accordingly, I further find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and therefore; this matter should be dismissed for her failure to prosecute.

ORDER

It is hereby **ORDERED** that this matter be dismissed for Employee's failure to prosecute her Appeal.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

² See, e.g., *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); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).