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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0206-11
RONNIE WILLIAMS,)	
Employee)	
)	Date of Issuance: August 2, 2013
v.)	
)	
D.C. FIRE & EMERGENCY MEDICAL)	
SERVICES DEPARTMENT,)	
Agency)	
_____)	Arien P. Cannon, Esq.
)	Administrative Judge
Lathal Ponder, Employee Representative)	
Mary Young, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On September 2, 2011, Ronnie Williams (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) challenging the D.C. Fire & Emergency Medical Services Department’s (“Agency”) decision to terminate him for failure to pass the National Registry Examination.¹ At the time Employee was terminated, he was a firefighter with the Agency. The effective date of Employee’s termination was August 15, 2011.² This matter was assigned to me on June 18, 2013. A Prehearing Conference was scheduled in this matter for July 23, 2013. Agency’s representative was present. However, Employee and his representative failed to appear. A Show Cause Order was issued the day of the Prehearing Conference, which gave Employee until July 31, 2013 to respond. As of the date of this decision, Employee has not responded to the Show Cause Order. The record is now closed.

¹ See Petition for Appeal (September 2, 2011).

² See *Id.*, Letter of Decision/Removal attachment.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

On May 24, 2011, Agency's Trial Board recommended that Employee be terminated for incompetence. Specifically, on August 21, 2009, the Agency was advised by the National Registry of Emergency Technicians (NREMT) that Employee failed to obtain a passing score on the NREMT-B exam after six attempts.³ The Agency's Chief, in an August 3, 2011 Letter of Decision/Removal, adopted the Trial Board's recommendation of termination. This letter informed Employee that his termination would become effective August 15, 2011. Employee was also given his appeal rights in this letter. Subsequently, Employee appealed to this Office.

A Prehearing Conference Order was issued on June 25, 2013. This order required the parties to appear before this Office on July 23, 2013. Agency's representative was present; however, neither Employee nor his representative was present. On July 15, 2013, the Prehearing Conference Order sent to Employee's representative of record was returned to this Office by the U.S. Postal Service as "No such Street/Unable to Forward." On July 23, 2013, the Prehearing Conference Order sent to Employee was also returned to this office from the U.S. Postal Service stating that the address on the envelope was "Vacant/Unable to Forward." The address Employee provided in his Petition for Appeal is the same address where the Prehearing Conference Order was sent. A phone call to a number provided by Employee in his Petition for Appeal proved futile, as the number was no longer in service. To date, Employee has not made this Office aware of any address or phone number change in his contact information. The address for Employee's representative is also the same address that was provided in Employee's Designation of Representative form. A search on the D.C. Bar "member search" feature indicated that Employee's representative's status was "suspended." A phone call to Employee's representative's office revealed that this number was also no longer in service. To date, there has been no updated contact information provided for Employee's representative.

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. This Office has attempted contact to Employee and his representative on several occasions regarding this matter, to no avail. Employee has a duty to inform this Office of a change of address which Employee and his representative failed to do. Failure to inform this Office of an address change has resulted in correspondence being returned. Accordingly, I find that Employee has failed to exercise due diligence and take reasonable steps in prosecuting his appeal before this Office.

³ See *Id.* attachments.

ORDER

Based on the aforementioned, it is hereby ORDERED that Employee's Petition for Appeal in this matter is DISMISSED for failure to prosecute.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge