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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: J-0235-12
MONICA MAPP,)	
Employee)	
)	Date of Issuance: November 27, 2012
v.)	
)	
SUPERIOR COURT OF THE DISTRICT OF)	
COLUMBIA, COURT SOCIAL SERVICES)	
DIVISION,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Nathaniel D. Johnson, Esq., Employee Representative)	
Terrie Odum, Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On September 5, 2012, Monica Mapp (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Superior Court of the District of Columbia, Court of Social Services’ (“Agency”) action of terminating her employment.

I was assigned this matter in October of 2012. On October 10, 2012, I ordered the parties to submit briefs on the issue of whether this Office may exercise jurisdiction over Employee’s appeal. On November 13, 2012, I issued an Order for Statement of Good Cause to Employee because she had failed to submit a brief. Employee was required to submit a statement to establish good cause on or before November 21, 2012. Employee failed to submit a brief or a statement of cause as of the date of this decision. The record is now closed.

JURISDICTION

As will be explained below, jurisdiction over this matter has not been established.

ISSUE

Whether Employee’s appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the CMPA, sets forth the law governing this Office. D.C. Official Code § 1-606.03 (“Appeal procedures”) reads in pertinent part as follows:

- (a) An employee may appeal [to this Office] a final agency decision affecting a performance rating which results in removal of the employee . . . , an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more . . . , or a reduction in force [RIF]. . . .

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012), states that “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 the 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 621.3 further provides that “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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to submit a brief could result in sanctions as enumerated in OEA Rule 621.3. Employee failed to submit a written brief in response to the Order issued on November 13, 2012. Employee also failed to provide a Statement of Good Cause on or before November 21, 2012 to explain her failure to submit a brief.¹ Based on the foregoing, I find that Employee’s lack of diligence in pursuing her appeal before OEA constitutes a failure to prosecute and serves as grounds for the dismissal of this matter.

¹ It should also be noted that this Office does not have jurisdiction over appeals filed by employees of the D.C. Superior Court system.

ORDER

It is hereby ORDERED that Employee's Petition for Appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE