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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
NEDA ROACH)	OEA Matter No. 1601-0035-14
Employee)	
)	Date of Issuance: September 26, 2014
v.)	
)	Lois Hochhauser, Esq.
DISTRICT OF COLUMBIA DEPARTMENT OF)	Administrative Judge
PUBLIC WORKS)	
Agency)	
)	

Neda Roach, Employee, *Pro Se*
Lindsay Neinast, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

Neda Roach, Employee, filed a petition with the Office of Employee Appeals (OEA) on December 19, 2013, appealing the decision of the District of Columbia Department of Public Works, Agency, to suspend her from her position as a Parking Enforcement Officer for 15 days without pay, effective November 29, 2013. At the time of the adverse action, Employee was in career service and permanent status. The matter was assigned to me on July 17, 2014.

On July 24, 2014, I issued an Order scheduling a prehearing conference for August 13, 2014. The Order stated that failure to appear at the proceeding in a timely manner could result in the imposition of sanctions, including the dismissal of the petition. The Order was sent by U.S. Postal Service, first class mail, postage prepaid, to Employee at the address listed by her in the petition. It was not returned as undelivered and is presumed to have been received by her in a timely manner.

On August 13, 2014, Agency Representative, Ms. Neinast, appeared for the prehearing conference in a timely manner. Employee did not appear and did not contact the undersigned to request a delay or continuance. After waiting approximately 45 minutes, the Administrative Judge excused Ms. Neinast.

On August 18, 2014, I issued an Order directing Employee to show good cause for her failure to attend the prehearing conference. The Order reminded Employee that she had an

affirmative duty to prosecute her appeal and that she did not meet this duty when she failed to appear at the prehearing conference. She was notified that if she did not file a response by 5:00 p.m. on August 28, 2014, the record would close and the matter would be dismissed. Employee did not file a response or request an extension. The record closed on August 28, 2014.

JURISDICTION

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

ISSUE

Should this appeal be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

OEA Rule 621.3, 59 DCR 2129 (March 16, 2012) states in pertinent part 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 or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a schedule proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission

Two Orders were issued in this matter. Both were sent by first class mail, postage prepaid, to Employee at the address she included in her petition for appeal. Neither was returned to OEA as undelivered, and both are presumed to have been received by Employee in a timely manner. Employee was cautioned in the July 24, 2014 Order that her failure to appear at the prehearing conference could result in the imposition of sanctions, including the dismissal of the petition. She did not request a continuance and did not appear, thus violating OEA Rule 621.3(a). In the August 18, 2014 Order, Employee was directed to show good cause for her failure to attend the prehearing conference, and cautioned that if she did not respond by the deadline of August 28, 2014, the petition would be dismissed. She did not request an extension or file a response, again violating OEA Rule 621.3(b). Based on these findings of fact and conclusions, the Administrative Judge further concludes that Employee's failures to appear at the prehearing conference on August 13, 2014 and failure to respond to the August 18, 2014 Order constitute failures to prosecute. Finally, the Administrative Judge concludes that pursuant to OEA Rule 621.3, in an "exercise of sound discretion," this petition should be dismissed based on Employee's failure to prosecute the appeal.

ORDER

It is hereby:

ORDERED: The petition for appeal is dismissed.

FOR THE OFFICE:

LOIS HOCHHAUSER, Esq.
Administrative Judge