

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Jerome Gibson)	OEA Matter No. 1601-0102-11
Employee)	
)	Date of Issuance: April 30, 2013
)	
v.)	
)	
Office of the Chief Medical Examiner)	Senior Administrative Judge
Agency)	Joseph E. Lim, Esq.
_____)	
Jerome Gibson, Employee <i>pro se</i>		
Frank McDougald, Esq., Agency Representative		
Tilman Gerald Esq., Employee Representative		

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On April 27, 2011, Employee, an Autopsy Assistant, filed a petition for appeal with this Office from Agency's final decision summarily terminating him effective April 9, 2011, due to misfeasance. The matter was assigned to the undersigned judge on July 30, 2012. After three postponements necessitated by requests from the parties, I scheduled a prehearing conference for March 29, 2013. Employee failed to appear. On the same day, Employee's counsel submitted a motion to withdraw their representation, citing a lack of communication and cooperation from Employee.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to comply. I issued an Order for Good Cause Statement to Employee asking him to explain his non-compliance. To date, Employee has failed to respond. The record is closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

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. In this matter, Employee failed to respond to several Orders that I issued. Each had specific time frames and both contained warnings that failures to comply could result in penalties, including the dismissal of the petition. The Orders were sent to Employee at the address she listed as her home address in her petition and in her submissions. They were sent by first class mail, postage prepaid and were not returned. They are presumed to have been delivered in a timely manner. *See, e.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).

ORDER

It is hereby ORDERED that the petition in this matter is dismissed for failure to prosecute.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge