THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	
MARK H. LEVITT, Employee	OEA Matter No. 2401-0001-00
	Date of Issuance: June 23, 2009
D.C. OFFICE OF PERSONNEL, Agency	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Mark Levitt ("Employee") worked as a Labor Relations Officer with the D.C. Office of Personnel ("Agency"). On July 14, 1999, Employee received a notice terminating his employment as the result of a reduction-in-force ("RIF"). Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") where he argued that the RIF action was really a pre-text to terminate his employment without cause. This matter went to the Superior Court of the District of Columbia and the D.C. Court of Appeals. The case was eventually remanded to the OEA Administrative Judge ("AJ") to allow discovery and to conduct a hearing in the matter.

Before the AJ could hold a hearing in this case, both parties entered into a settlement agreement through OEA's Mediation Program. The agreement was filed with OEA on August 25, 2006. On October 12, 2006, the AJ issued an Initial Decision dismissing the case. The AJ found that because Employee withdrew his case after signing the settlement agreement, there was a final and binding resolution to this matter. The AJ also provided that one of the terms of the settlement agreement was that Employee's withdrawal of his petition for appeal would be with prejudice.[1]

On November 13, 2006, Employee filed a Petition for Review with the OEA Board. He argued that the Initial Decision conflicts with certain terms outlined in the settlement agreement. He asserted that the terms of the settlement agreement gives him the right to void the agreement and the release statement and allows him to reinstate his OEA appeal. Employee provided that if he failed to receive his retirement benefits, then he should be allowed the opportunity to continue his appeal and not re-file his Petition for Appeal with OEA. Therefore, he requested that the matter be remanded to the AJ to modify his Initial Decision.

Before this Board could issue an Opinion and Order on Petition for Review, Employee filed a motion to withdraw his Petition for Review on April 22, 2009. Accordingly, Employee's Petition for Review is dismissed.

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[1] *Initial Decision*, p. 2 (October 12, 2006).

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DISMISSED**.

FOR THE BOARD:

Sherri Beatty-Arthur, Chair

Barbara D. Morgan

Richard F. Johns

Hilary Cairns

Clarence Labor, Jr.

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.