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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
IRIS GLENN)	OEA Matter No. 1601-0079-12
Employee)	
v.)	Date of Issuance: July 25, 2012
DISTRICT OF COLUMBIA FIRE AND)	
EMERGENCY SERVICES DEPARTMENT)	Lois Hochhauser, Esq.
Agency)	Administrative Judge
Hillary Hoffman-Peak, Esq., Agency Representative		
Iris Glenn, Employee, <i>pro se</i>		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

Iris Glenn, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on March 19, 2012, appealing the decision of the District of Columbia Office of the State Superintendent of Education, Agency herein, to remove her from her position as Bus Attendant. According to the Standard Form 50, attached to the petition, the effective date of the removal was February 22, 2012. The matter was assigned to me on or about June 18, 2012.

The file contained two documents signed by Employee and Agency Representative. Both were filed on June 12, 2012, and both are undated. The first, titled "Praeceptum of Dismissal" states:

Comes now Iris Glenn, and files this praecipe stating:

1. The Office of the State Superintendent of Education will please note that the parties have settled this matter, and Ms. Glenn agrees to dismiss this case, with prejudice.
2. The Clerk will please note that this case has been settled and dismissed with prejudice.

The second, titled "Office of the State Superintendent of Education's Confidential Settlement Statement" states that Employee agreed the matter was settled and all issues were resolved, and further that she agreed to withdraw her appeal. However, the second document, while appearing to be a settlement statement was captioned as Agency's confidential settlement statement. It also referred to a June 1, 2012 appeal, while the appeal in this matter was filed on March 19, 2012.

Although it appeared that the parties had settled the matter and that Employee wanted the appeal to be dismissed, given the confusing nature of the documents and to be certain that the representations were accurate, I issued an Order on June 20, 2012 which identified the problems with the documents, and advised the parties that the Order was being issued to confirm that the matter had been settled and that Employee wanted her appeal to be dismissed. In the Order, I directed Employee to notify me by July 3, 2012 "if she opposes the immediate dismissal of her petition for appeal." I advised her that she did not need to respond if she agreed that the matter had been settled and the petition for appeal should be dismissed. I further advised her that her failure to respond would be considered concurrence that this appeal should be dismissed based on a settlement. I informed the parties they could correct the caption of the second document or could notify me that their intention was for the document to be a settlement of the matter. Finally, the Order stated that the record in this matter would close on July 3, 2012 unless they were notified to the contrary.

The Order, the Order was mailed to Employee at the address she listed in her petition for appeal, on June 20, 2012. It was not returned to this Office, and is presumed to have been delivered. Neither party responded to the Order. The record was closed on July 3, 2012.

JURISDICTION

The Office has jurisdiction pursuant to OEA Rule 604, 59 DCR 2129 (March 16, 2012).

ISSUE

Should the petition be dismissed?


FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

In accordance with OEA Rule 619.2(g), 59 DCR 2129 (March 16, 2012), an Administrative Judge may dismiss a case "based on a settlement agreement reached by the parties". The documents submitted by the parties stated that the matter was settled and that Employee wanted the petition for appeal dismissed. However, due to some confusing language in the documents, I issued an Order giving Employee the opportunity to advise me if the matter was not settled and if she did not want the petition to be dismissed. Employee was notified that her failure to respond would be seen as concurrence that the matter was settled and the petition should be dismissed. The Order was sent to the address listed by Employee and was not returned. It is presumed to have been delivered. Employee did not respond. The Administrative Judge finds that there is sufficient evidence in the record to conclude that the matter was settled by the parties and that the petition for appeal should be dismissed.

ORDER

Based on these findings and conclusions, and consistent with this analysis, it is hereby ordered that the petition for appeal is dismissed.

FOR THE OFFICE:


LOIS HOCHHAUSER, Esq.
Administrative Judge