Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and on the Office of Employee Appeals' website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA BEFORE THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	
EMPLOYEE, ¹	OEA Matter No.: J-0003-24
Employee	
) Date of Issuance: April 29, 2024
v.)
D.C. FIRE AND EMERGENCY)
MEDICAL SERVICES DEPARTMENT,) NATIYA CURTIS ESQ.
Agency) Administrative Judge
)
Employee Pro Co	_)
Employee, Pro Se	
Madeline Terlap, Esq., Agency Representativ	re

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 10, 2023, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA" or "Office") contesting the District of Columbia Fire and Emergency Medical Services Department's decision to terminate him from his position as Recruit Firefighter/Emergency Medical Technician, effective October 7, 2023.² In a letter dated October 10, 2023, OEA requested Agency submit an Answer to Employee's Petition for Appeal. Agency filed its Answer on November 9, 2023. Agency noted therein that OEA lacked jurisdiction over Employee's appeal because he was in probationary status at the time of his termination. This matter was assigned to the undersigned Administrative Judge ("AJ") on November 13, 2023. On November 16, 2023, the undersigned issued an Order for Briefs on Jurisdiction, requiring Employee to submit a brief on whether this matter should be dismissed for lack of jurisdiction due to Employee's probationary status at the time of termination. Employee's brief was due on or before December 11, 2023. Employee did not submit a brief as required. As a result, on December 19, 2023, the undersigned issued an Order for Statement of Good Cause to Employee for failure to submit a brief pursuant to the November 16, 2023, Order which required Employee to submit his brief and statement to the undersigned and Agency's representative, by the close of business on December 29,

¹ Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.

² Employee was within his probationary period at the effective date of termination (Agency's Motion to Dismiss Employee's Petition for Appeal and Answer, (November 9, 2023)).

2023. Employee submitted his brief as required. ³ Employee asserted in his Brief on Jurisdiction that he was medically retired on October 29, 2023. ⁴

On January 2, 2024, the undersigned issued an Order for Supplemental Briefs on Jurisdiction, amending the due date of Agency's response to January 24, 2024. Agency submitted its Response and Supplemental Motion to Dismiss as required.⁵ Agency confirmed in its Response and Supplemental Motion to Dismiss that Employee was medically retired on disability by the DC Police and Firefighters' Retirement and Relief Board, effective October 29, 2023. Agency further asserted that Employee had not been terminated by the Agency.⁶ Based upon the submissions of both parties, I determined that a Status Conference was warranted.

On January 29, 2024, I issued an Order scheduling a Status Conference for February 20, 2024. During the Status Conference, Employee asserted that he was involuntarily medically retired on disability. Agency confirmed that Employee was involuntary medically retired on disability. Agency further noted that it was not clear if Employee's October 7, 2023, termination had been rescinded. Based on the assertions made during the Status Conference, the undersigned determined that additional briefs were warranted to address the outstanding issues. Accordingly, on February 23, 2024, I issued a Post-Status Conference Order requiring Agency to address (1) whether Employee's termination was rescinded and provide a copy of the rescission letter; and (2) why involuntary retirement is not appealable to this Office. Employee was required to submit a brief addressing the involuntary retirement. Agency submitted its brief as required and included a Recission Letter which noted that Employee's October 7, 2023, termination was rescinded because Employee was medically retired on disability effective October 29, 2023.

On March 15, 2024, Employee emailed the undersigned and requested to withdraw his Petition for Appeal. As substantive requests are not discussed via email, I issued an Order on March 21, 2024, which scheduled a Status Conference for April 2, 2024. At the Status Conference, I explained that the request to withdraw was required to be submitted in writing pursuant to OEA Rules.⁷ On April 12, 2024, Employee submitted his statement of withdrawal.

JURISDICTION

The jurisdiction of this Office has not been established in this matter.

ISSUE

Whether this appeal should be dismissed based upon Employee's voluntary withdrawal.

ANALYSIS AND CONCLUSIONS OF LAW

³ Employee's Brief on Jurisdiction was submitted on December 29, 2023.

⁴ Employee's Brief on Jurisdiction (December 29, 2023).

⁵ Agency's Response and Supplemental Motion to Dismiss was submitted on January 16, 2024.

⁶Agency Response and Supplemental Motion to Dismiss (January 16, 2024) (This submission included Employee's termination letter, effective October 7, 2023).

⁷ All filings made to the Office, except for the Petition for Appeal, Petition for Review and Agency Answer, must be made in accordance with OEA Rule 608.8 which provides, in part, that "a party must submit two (2) hard copies of any pleading, motion, exhibit or witness list, discovery response, or any written submission, either by mail or hand-delivery to the Office."

In his April 12, 2024, submission to this Office, Employee noted that he would like to have this matter dismissed.⁸ Accordingly, I find that since Employee has filed a request to withdraw his Petition for Appeal, that Employee's Petition should be dismissed.

ORDER

It is hereby **ORDERED** that the Petition for Appeal in this matter is **DISMISSED**.

FOR THE OFFICE:

/s/ Natiya Curtis
NATIYA CURTIS, ESQ.
Administrative Judge

⁸ Employee's Notice to Withdraw (April 11, 2024).