

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
Samuel Murray)	OEA Matter No. 1601-0108-09
Employee)	
)	Date of Issuance: December 6, 2010
v.)	
)	Senior Administrative Judge
Dept. of Youth Rehabilitation Services)	Joseph E. Lim, Esq.
Agency)	
)	

Samuel Murray, Employee *pro se*
Lionel Sims, Esq., Agency Representative

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On April 1, 2009, Employee, a Motor Vehicle Operator, DS-303, Grade 7 Step 6, filed a petition for appeal with this Office from Agency's final decision suspending him from Government service for 30 days effective March 2, 2009, due to his sexual harassment of a co-worker. The matter was assigned to the undersigned on November 25, 2009. I issued an Order directing the parties to attend a January 6, 2010, Prehearing Conference and to submit a Prehearing Statement by December 29, 2009. Agency complied, but Employee did not.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to attend the conference or submit a Prehearing Statement. 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

OEA Rule § 622.3, 46 D.C. Reg. 9313 (1999) provides as follows:

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 scheduled proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission; or
- (c) Inform this Office of a change of address which results in correspondence being returned.

The employee was warned in each order that failure to comply could result in sanctions including dismissal. The employee never complied. Employee’s behavior constitutes a failure to prosecute her appeal and that is sound cause for dismissal.

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