

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
Victoria Smith	)	OEA Matter No. 2401-0021-12
Employee	)	
	)	
	)	Date of Issuance: October 3, 2014
v.	)	
	)	
Metropolitan Police Department	)	Joseph E. Lim, Esq.
Agency	)	Senior Administrative Judge
_____	)	
Victoria Smith, Employee <i>pro se</i>		
Frank McDougald, Esq., Agency Representative		

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On November 10, 2011, Victoria Smith (“Employee”) filed a petition for appeal with this Office from Agency’s final decision separating her from her position as an Information Technology Specialist due to a Reduction in Force (“RIF”). The matter was assigned to the undersigned judge on August 2, 2013. After a couple of postponements requested by the parties, I held a prehearing conference on October 3, 2013, and ordered the parties on July 30, 2014, to submit a legal brief on the applicable RIF regulations. After the parties complied, I ordered the parties to submit a joint stipulation of facts and to identify their issues.

At some point, Employee’s representative, Julianne Bythrow, Esq., withdrew her legal representation, complaining that Employee had failed to participate and communicate with her. When Employee failed to make her stipulation despite efforts by Agency to contact her, I issued an Order For Good Cause Statement to Employee on September 9, 2014. Again, Employee failed to respond. Despite prior warnings that failure to comply could result in sanctions, including dismissal; 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.

FINDING OF FACTS, 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 all Orders that I issued. All 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