

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)
)
ISHEL BLALOCK,) Matter No. 1601-0011-19
Employee)
) Date of Issuance: May 30, 2019
v.)
) JOSEPH E. LIM, ESQ.
OFFICE OF THE STATE) Senior Administrative Judge
SUPERINTENDENT OF EDUCATION,)
Agency)

Ishel Blalock, Employee *pro se*
Nicole Dillard, Esq., Agency Representative

INITIAL DECISION

PROCEDURAL HISTORY

On October 25, 2018, Ishel Blalock (“Employee”) filed a petition for appeal with this Office (“OEA”) from Agency's final decision terminating her from her position as a Bus Attendant for absence without official leave and neglect of duty. After an unsuccessful mediation session, the matter was assigned to the undersigned judge on March 1, 2019. I ordered the parties to submit a prehearing statement by May 9, 2019, and attend a May 14, 2019, prehearing conference. While Agency complied, Employee failed to do so. I ordered Employee to show good cause for her failure to respond to the order by May 22, 2019. On that date, Employee submitted a non-responsive letter. Despite prior warnings that failure to comply could result in sanctions, including dismissal, Employee has failed to respond. The record is closed.

JURISDICTION

This 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 of the Orders 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.¹

In her response to the Show Cause Order, Employee did not offer a plausible reason for her failure to follow orders. Instead, she cited her technical difficulties with her email. However, the order for the prehearing conference was sent to her by postal mail. Employee offered no explanation for her non-compliance nor did she call the Office beforehand. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. I further find that Employee's failure to prosecute her appeal is a violation of OEA Rule 621. For these reasons, this matter should be dismissed for failure to prosecute.

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

¹ *Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).