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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0138-12
NICOLE KELLY,)	
Employee)	
)	Date of Issuance: December 16, 2013
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Nicole Kelly, Employee		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On July 6, 2012, Nicole Kelly (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) action of terminating her employment. According to Agency, Employee failed to obtain a license to teach in the District of Columbia. Employee’s termination was effective on July 14, 2012.

I was assigned this matter in October of 2013. On October 29, 2013, I issued an Order convening a Prehearing Conference to be held at this Office on November 25, 2013 at 2:00 p.m. Employee did not appear for the conference. I subsequently issued an Order for Statement of Good Cause to Employee on December 2, 2013 because she failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish cause for her failure to appear on or before December 11, 2013. Employee has failed to submit a statement of good cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

This Office has jurisdiction in this matter pursuant to D.C. Official Code §1-606.03 (2001).

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides that "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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to appear could result in sanctions as enumerated in Rule 621.3. Employee did not appear for the November 25, 2013 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before December 11, 2013 to explain her failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's Petition for Appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE