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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
STACY SANDERS)	OEA Matter No.1601-0095-12
Employee)	
)	Date of Issuance: November 18, 2013
v.)	
)	Lois Hochhauser, Esq.
D.C. DEPARTMENT OF YOUTH)	Administrative Judge
REHABILITATION SERVICES)	
Agency)	
)	
Stacy Sanders, Employee, <i>Pro Se</i>		
Cherie Cooley, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

Stacy Sanders, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on May 7, 2012, appealing the decision of the D.C. Department of Youth Rehabilitation Services, Agency herein, to suspend her for 15 days without pay, effective April 22, 2013. Employee was a Correctional Officer and was in permanent and career status at the time she filed her appeal. The matter was assigned to me on September 16, 2013.

On September 25, 2013, I issued an Order scheduling a prehearing conference for October 16, 2013. The Order was sent to Employee by first class mail, postage prepaid, at the address she listed on her petition for appeal. The Order was not returned to OEA and is presumed to have been delivered in a timely manner.

Cherie Cooley, Esq., Agency counsel, appeared for the prehearing conference in a timely manner. Employee did not appear. After waiting about 20 minutes after the scheduled start time, I telephoned Employee at the telephone number listed in her petition. Employee did not answer, and I left a voicemail stating that her matter had been scheduled, that I had not heard from her regarding her inability to attend, and asking that she contact me immediately. Employee did not contact me back, and after an additional 20 minutes I excused the Agency representative.

On October 17, 2013, I issued an Order directing Employee to show cause why her appeal should not be dismissed for failure to prosecute based on her failure to appear at the scheduled

prehearing conference. The Order stated that her response had to be filed by 5:00 p.m. on November 1, 2013; and that her failure to respond to the Order would be considered an additional basis for dismissing the appeal. The parties were advised that unless they were notified to the contrary, the record in this matter would close on November 1, 2013. Employee did not respond to the Order. The record closed on November 1, 2013.

JURISDICTION

This Office has jurisdiction pursuant to D.C. Office Code Section 1-606.03 (2001).

ISSUE

Should this petition be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

OEA Rule 621.1, 59 DCR 2129 (March 16, 2012) authorizes the Administrative Judge, “in the exercise of sound discretion,” to impose sanctions upon parties as appropriate. OEA Rule 621.3, states that failure to prosecute an appeal includes, but is not limited to, a party’s failure to (a) appear at a scheduled proceeding after receiving notice; and (b) submit required documents after being provided with a deadline for such submission. This Office has consistently held that a petition for appeal may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding for which notice has been provided or fails to submit required documents for which a deadline has been imposed. *See, e.g., Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); and *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010). In this matter, Employee both failed to appear at a schedule proceeding after receiving notice and to submit a required document where there was a deadline for the submission. In the second Order, she was notified that her failure to comply would provide an additional basis for dismissing her petition for appeal. As noted above, both Orders were sent by first class mail, postage prepaid, to the address listed by Employee in her petition. Neither Order was returned to OEA, and both are presumed to have been received by Employee in a timely manner. The Administrative Judge concludes, in an “exercise of sound discretion,” that this petition for appeal should be dismissed based on Employee’s failure to prosecute this matter pursuant to OEA Rule 621.3.

Based on the findings of fact, conclusions of laws, and discussion herein, the Administrative Judge, concludes that this petition for appeal should be dismissed for failure to prosecute the appeal.

ORDER

It is hereby ORDERED that the petition for appeal is DISMISSED.

FOR THE OFFICE:

LOIS HOCHHAUSER, Esq.
Administrative Judge