

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
Kathy Johnson	)	OEA Matter No. 1601-0186-11
Employee	)	
	)	Date of Issuance: November 21, 2013
v.	)	
	)	Senior Administrative Judge
D.C. Public Schools	)	Joseph E. Lim, Esq.
Agency	)	

Kathy Johnson, Employee *pro se*  
Carl Turpin, Esq., Agency Representative

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On July 26, 2011, Kathy Johnson (Employee) filed a petition for appeal with this Office from Agency's final decision terminating her from her position as Custodian/Maintenance Worker for receiving a performance rating of "Minimally Effective" for the 2009-2010 and 2010-2011 school years. The matter was assigned to the undersigned judge on or around June 18, 2013. On June 27, 2013, I ordered Employee to respond to the issue of jurisdiction based on Agency's allegation that Employee had filed a grievance with her union.<sup>1</sup> Employee failed to comply. On August 30, 2013, I issued an Order For Good Cause Statement to Employee. 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

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<sup>1</sup> Agency's Answer to Employee's Petition for Appeal, Tab 6.

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