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**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
KASEY RICHARDSON,	)	
Employee	)	OEA Matter No. 2401-0062-10
	)	
v.	)	Date of Issuance: February 14, 2012
	)	
DISTRICT OF COLUMBIA	)	
PUBLIC SCHOOLS,	)	
Agency	)	ERIC T. ROBINSON, ESQ.
	)	Senior Administrative Judge
_____	)	
Kasey Richardson, Employee <i>Pro Se</i>	)	
Sara White, Esq., Agency Representative	)	

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On October 23, 2009, Kasey Richardson (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) contesting the District of Columbia Public Schools’ (“the Agency”) action of abolishing her position through a Reduction-In-Force (“RIF”). The effective date of the RIF was November 2, 2009. I was assigned this matter on or around December 19, 2011. Thereafter, I scheduled a Prehearing Conference in order to assess the parties’ arguments. The conference was scheduled for January 19, 2012 at 10:30am. Neither party physically appeared for this conference. However, Sara White, Agency’s representative in this matter telephoned the undersigned to inform that she was sick and was then currently seeking medical attention for her ailment. Ms. White, then advised that she would be able to participate in the conference via telephone. I then informed Ms. White that Employee had not appeared for the conference. I then issued an Order for Statement of Good Cause dated January 19, 2012, wherein I required both parties to provide good cause for their respective failure to appear for the above mentioned Prehearing Conference. Both parties were required to respond on or before January 31, 2012. Ms. White timely submitted a satisfactory response to the aforementioned order. To date, I have not received a response from Employee.

Of note, Employee’s order was returned to the OEA by the United States Postal Service. This order was sent to Employee’s address of record as indicated in her petition for appeal form.

Due to Employee's failure to actively prosecute her appeal, I have decided that no further proceedings are required. The record is now closed.

### JURISDICTION

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

### ISSUE

Whether this matter should be dismissed.

### BURDEN OF PROOF

OEA Rule 629.1, 46 D.C. Reg. 9317 (1999) states:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 629.3 *id.* states:

For appeals filed on or after October 21, 1998, the Agency shall have the burden of proof, except for issues of jurisdiction.

### FINDING OF FACTS, ANALYSIS, AND CONCLUSIONS

OEA Rule 609.546 D.C. Reg. 9313 (1999), reads in pertinent part as follows:

An employee's failure to include a complete address, or to advise the Office of a change in address, shall constitute a waiver of any right to notice and service, and may result in the appeal being dismissed.

OEA Rule 622.3, 46 D.C. Reg. 9313 (1999), reads in pertinent part as follows:

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 or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a scheduled proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission...

This Office has held that a matter may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding or fails to submit required documents. *See, e.g., Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985). Furthermore, it is solely Employee's duty to promptly update the OEA of a change of address. Here, Employee did not update her address of record; she failed to appear at the Prehearing Conference; and she did not provide a written response to my Order for Statement of Good Cause. All were required for a proper resolution of this matter on its merits. Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Accordingly, I find that this matter should be dismissed.

#### ORDER

It is hereby ORDERED that this matter be DISMISSED due to Employee's failure to prosecute her petition for appeal.

FOR THE OFFICE:

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ERIC T. ROBINSON, ESQ.  
Senior Administrative Judge