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**THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:)	
)	OEA Matter No.: 1601-0065-24
EMPLOYEE, ¹)	
Employee)	
)	Date of Issuance: December 17, 2025
v.)	
)	
D.C. DEPARTMENT OF PUBLIC WORKS,)	NATIYA CURTIS, Esq.
)	
Agency)	Administrative Judge
)	

Employee, *Pro Se*²

Timothy McGarry, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On June 11, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Public Works (“Agency” or “DPW”) decision to terminate him from his position as a Parking Enforcement Officer, effective June 14, 2024. The removal action was for conduct prejudicial to the District Government: on duty conduct that an employee should reasonably know is a violation of law or regulation.³ OEA issued a letter dated July 11, 2024, requesting Agency file an Answer on or before August 10, 2024. Agency filed its Answer to Employee’s Petition for Appeal as required. This matter was assigned to the undersigned Administrative Judge on August 13, 2024. On August 14, 2024, I issued an Order Convening a Prehearing Conference for September 20, 2024. On September 9, 2024, the undersigned issued an Order, which rescheduled the Prehearing Conference to October 3, 2024.⁴

On September 26, 2024, Agency filed a Consent Motion to Extend Deadline to File Prehearing Statements, citing that the parties were still engaged in discovery. In an Order dated September 27, 2024, I granted the Motion in part, and converted the Prehearing Conference scheduled for October 3, 2024, to a Status/Discovery Conference. Both parties appeared for the

¹ Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.

² Employee was represented at the time he filed the Petition for Appeal on July 11, 2024, until his representative withdrew on July 1, 2025.

³ Agency’s Answer to Employee’s Petition for Appeal, Tab 7 (August 11, 2024), citing DPM §1607.2(a)(4).

⁴ Employee’s representative was not sent a copy of the August 14, 2024, Order; thus, the undersigned rescheduled the Prehearing Conference.

conference as required and requested additional time to complete discovery. On October 4, 2024, I issued an Order Convening a Status/Discovery Conference for November 12, 2024. The parties appeared for the conference, as required and requested additional time to complete discovery. On November 14, 2024, the undersigned issued a Post Status/Discovery Conference Order, scheduling a Status/Discovery Conference for December 10, 2024, and a Prehearing Conference for January 16, 2025. The parties appeared for the conference as required. During the Prehearing Conference on January 16, 2025, the parties noted that they remained engaged in discovery. As a result, in an Order dated January 21, 2025, I rescheduled the Prehearing Conference to February 11, 2025. The Prehearing Conference was held as scheduled.

On February 12, 2025, the undersigned issued a Post-Prehearing Conference Order, requiring the parties to submit briefs in this matter.⁵ Agency's brief was due by March 11, 2025, Employee's brief was due by April 8, 2025, and Agency's sur-reply was due by April 22, 2025. The parties submitted their briefs within the prescribed deadline. Based on the parties' submissions and the record, the undersigned determined that an Evidentiary Hearing was warranted.⁶ On May 29, 2025, the undersigned issued an Order Convening an Evidentiary Hearing, and scheduled the Evidentiary Hearing for August 5, 2025, and August 6, 2025.

On July 1, 2025, Employee's Representative submitted a Notice of Cancellation of Designation as Employee Representative. On July 11, 2025, the undersigned issued an Order for Status Conference, scheduling a Status Conference for July 17, 2025. During the Status Conference, Employee noted that he was working to secure a new representative. Thus, the undersigned advised that the Evidentiary Hearing would be rescheduled to provide Employee with time to secure representation. In an Order dated August 18, 2025, the undersigned rescheduled the Evidentiary Hearing for November 5, 2025, and November 6, 2025.⁷ A list of exhibits was due by October 1, 2025. Employee failed to submit his exhibit list as required.⁸

On October 28, 2025, after several attempts to contact Employee by email and phone, the undersigned issued an Order Convening a Status Conference for October 30, 2025.⁹ Employee did not appear for the Status Conference as required. The undersigned cancelled the Evidentiary Hearing scheduled for November 5, and November 6, 2025, and issued an Order for Statement of Good Cause to Employee on November 4, 2025. Employee's statement was due by November 19, 2025. As of the date of this decision, Employee has not responded to the Order issued on November 4, 2024, has not submitted his statement of good cause, and has not responded to the attempts to contact him via email and telephone. The undersigned

⁵ The parties were required to submit briefs addressing: (1) Whether Agency had cause for adverse action in this matter; and (2) Whether Agency, in terminating Employee from service, followed all applicable District of Columbia statutes, regulations, and laws; and (3) Whether the penalty was appropriate.

Further, the parties were also advised that their briefs should address and/or include information regarding the following issues: (1) Information regarding Agency's policy, procedures, and/or protocols for release of an impounded vehicle. (2) Information and documentation regarding Employee's computer logins for January 26, 2024, including logins to the DLMS system. (3) Employee's location on January 29, 2025, when the tow truck entered the impound lot.

⁶ On May 16, 2025, the undersigned scheduled a Status Conference to discuss dates for the Evidentiary Hearing.

⁷ On July 28, 2025, The undersigned emailed the parties to determine a new date for the Evidentiary Hearing. Agency confirmed by email that Agency's witnesses were available on these dates. Employee did not respond to email attempts to confirm he and his witnesses were available for an Evidentiary Hearing on these dates.

⁸ Employee failed to reply to emails the undersigned sent to the parties, and phone calls by OEA Administrators to determine his availability.

⁹ Agency confirmed that it was available on this date. Employee did not respond to emails or phone calls.

has determined that an Evidentiary Hearing is no longer warranted. 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 Appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for 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 631.2 *id.* states:

For Appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 624.3, DCMR Ch. 600, et seq (December 27, 2021) grants an Administrative Judge the authority to "...dismiss the action or rule for the appellant" if a party fails to take reasonable steps to prosecute or defend an appeal. 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 (Emphasis added);* or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear for scheduled proceedings or fails to submit required documents.¹⁰ Here, Employee was provided notice in the Order for Statement of Good Cause issued on November 4, 2025, that failure to comply with the Order could result in sanctions,

¹⁰ See. *David Bailey Jr. v. Metropolitan Police Department*, OEA Matter No. 1601-0007-16 (April 14, 2016).

including dismissal. As of the date of this decision, Employee has not responded or provided a written response to the November 4, 2025, Order. Employee's response was required to make an informed decision regarding the resolution of this matter. Accordingly, I find that Employee's inaction presents a valid basis for dismissing this matter. Consequently, I further find that this matter should be dismissed for failure to prosecute.

ORDER

It is hereby **ORDERED** that this matter be **DISMISSED** for Employee's failure to prosecute.

FOR THE OFFICE:

/s/ Natiya Curtis
Natiya Curtis Esq.
Administrative Judge