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

In the Matter of:	)	
	)	OEA Matter No.: 1601-0081-15
ROLAND TYLER,	)	
Employee	)	
	)	Date of Issuance: December 11, 2015
v.	)	
	)	
DISTRICT DEPARTMENT OF	)	
TRANSPORTATION,	)	Monica Dohnji, Esq.
Agency	)	Senior Administrative Judge
	)	
Roland Tyler, Employee <i>Pro Se</i>		
Cheri Hance Staples, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On May 27, 2015, Roland Tyler (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District Department of Transportation’s (“Agency”) decision to terminate him from his position of Traffic Control Officer, effective May 4, 2015. On July 9, 2015, Agency submitted its Answer to Employee’s Petition for Appeal.

Following a failed mediation attempt, this matter was assigned to the undersigned Administrative Judge (“AJ”) on September 16, 2015. Thereafter, a Status/Prehearing Conference was scheduled for November 24, 2015. While Agency was present for the scheduled Status/Prehearing Conference, Employee was absent. Subsequently, on November 24, 2015, I issued an Order for Statement of Good Cause, wherein, Employee was ordered to explain his failure to attend the November 24, 2015 Status/Prehearing Conference, on or before December 8, 2015. As of the date of this decision, Employee has not responded to either Order. 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 628.1, 59 DCR 2129 (March 16, 2012) 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 628.2 *id.* states:

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 621.1 grants an Administrative Judge (“AJ”) the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal.<sup>1</sup> 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; 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 at a scheduled proceeding after receiving notice or fails to submit*

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<sup>1</sup> OEA Rule 621.3.

*required documents* (emphasis added).<sup>2</sup> Employee did not appear at the Status/Prehearing Conference, and did not provide a written response to my Order for Statement of Good Cause. Both were required for a proper resolution of this matter on its merits. I conclude that Employee's failure to prosecute his appeal is consistent with the language of OEA Rule 621. Employee was notified of the specific repercussions of failing to establish good cause for his failure to attend a scheduled proceeding. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and therefore, the matter should be dismissed for failure to prosecute.

ORDER

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

FOR THE OFFICE:

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MONICA DOHNJI, Esq.  
Administrative Judge

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<sup>2</sup> *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).