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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
SHERICKA SEYMORE,)	
Employee)	OEA Matter No. 1601-0045-14
)	
v.)	Date of Issuance: May 21, 2014
)	
D.C. PUBLIC SCHOOLS,)	MONICA DOHNJI, Esq.
Agency)	Administrative Judge
_____)	
Shericka Seymore, Employee <i>Pro Se</i>		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On January 17, 2014, Shericka Seymore (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the D.C. Public Schools’ (“Agency” or “DCPS”) decision to terminate her from her position as a DCPS Police Officer effective January 21, 2014. On February 24, 2014, Agency submitted its Answer to Employee’s Petition for Appeal.

I was assigned this matter in April of 2014. On April 21, 2014, I issued an Order directing Employee to address the jurisdiction issue in this matter because Agency noted in its Answer that Employee was an at-will employee without job tenure at the time of her termination. Employee’s brief on jurisdiction was due on or before April 30, 2014. Following Employee’s failure to submit her brief by the required deadline, on May 7, 2014, I issued an Order for Statement of Good Cause to Employee. Pursuant to that Order, Employee was required to submit a statement of good cause based on her failure to submit her brief. Employee had until May 16, 2014, to respond. As of the date of this decision, Employee has not responded to either Order. The record is now closed.

JURISDICTION

As will be explained below, the jurisdiction of this Office has not been established.

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.¹ 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 or fails to submit required documents.² Employee did not submit a brief addressing the jurisdiction issue in this matter as required by the April 21, 2014 Order, and she did not provide a written response to the May 7, 2014, Order for Statement of Good Cause. These actions were required for a proper resolution of this matter on its merits. I find that Employee’s failure to prosecute her appeal is consistent with the language of OEA Rule 621. Employee was notified of the specific repercussions for failing to submit

¹ *Id.* at 621.3.

² *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *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).

required documents. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and therefore; this matter should be dismissed for her failure to prosecute.

ORDER

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

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge