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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
JUANITA SPENCER,)	
Employee)	OEA Matter No. J-0275-10
)	
v.)	Date of Issuance: February 28, 2011
)	
D.C. PUBLIC SCHOOLS (DIVISION OF)	
TRANSPORTATION),)	MONICA DOHNJI, Esq.
Agency)	Administrative Judge
_____)	
Juanita Spencer, <i>Pro se</i>		
Frank Mc Dougald, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On February 19, 2010, Juanita Spencer (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “Office”) against D.C. Public Schools (Division of Transportation) (“Agency”) challenging Agency’s decision to terminate her employment effective February 10, 2010, where she served as a Bus Attendant. An initial review of Employee’s appeal indicated that this Office may not have jurisdiction over Employee’s appeal because her termination letter dated January 27, 2010 does not give her any appeal rights with this Office. Therefore, on February 02, 2011, I issued an Order requiring Employee to address the issue of whether this Office had jurisdiction over her appeal. Employee was informed that she had the burden of proof regarding the issue of jurisdiction. Employee was further informed that failure to respond to the Order could result in her appeal being dismissed for failure to prosecute. Employee’s response was due by close of business on February 21, 2011. Employee did not respond by the February 21, 2011 deadline and has not responded to date. The record is now closed.

JURISDICTION

The jurisdiction of this Office has not been established.

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

OEA Rule 622.3, 46 D.C. Reg. at 9313 (1999) provides as follow:

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;
or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has held that a matter may be dismissed for failure to prosecute when a party fails to submit required documents.¹ Here, Employee was warned in the February 02, 2011 Order that failure to comply could result in sanctions including dismissal. By failing to submit a response to the February 02, 2011 Order, Employee has failed to prosecute her appeal. I conclude that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and that therefore, the matter should be dismissed for her failure to prosecute.

ORDER

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

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

¹ *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), ___ D.C. Reg. ___ (); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010), ___ D.C. Reg. ___ ().