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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0162-11
BERNITA GREEN,)	
Employee)	
)	Date of Issuance: August 28, 2013
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Matthew Jones, Employee Representative		
W. Iris Barber, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 11, 2011, Bernita Green (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) action of terminating her employment based on a “Minimally Ineffective” rating under Agency’s Effectiveness Assessment System for School-Based Personnel program (“IMPACT”). The effective date of Employee’s termination was August 12, 2011.

I was assigned this matter in May of 2013. On July 15, 2013, I issued a Corrected Order Rescheduling a Prehearing Conference to be held at this Office on August 19, 2013, at 3:00 p.m. Counsel for Agency appeared for the conference; however, Employee did not. I subsequently issued an Order for Statement of Good Cause to Employee on August 20, 2013 because she had failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish good cause on or before August 27, 2013. Employee has failed to submit a statement of good cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

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

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides that "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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to appear could result in sanctions as enumerated in Rule 621.3. Employee failed to appear for the August 19, 2013 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before August 27, 2013, to explain her failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's petition for appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE