

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0240-12
CORDELL DOWNING,)	
Employee)	
)	Date of Issuance: February 18, 2014
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Cordell Downing, Employee, Pro Se		
Carl Turpin, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 11, 2012, Cordell Downing (“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 his employment based on an “Ineffective” rating under Agency’s IMPACT program, an effective assessment system for school-based personnel. Employee’s position of record at the time he was terminated was a Custodian. The effective date of Employee’s termination was August 10, 2012.

I was assigned this matter in December of 2013. On December 11, 2013, I issued an Order convening a Prehearing Conference to be held at this Office on January 27, 2014 at 2:00 p.m. Agency appeared for the conference; however, Employee did. I subsequently issued an Order for Statement of Good Cause to Employee on January 29, 2014 because he failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish cause for his failure to appear on or before February 7, 2014. Employee has failed to submit a statement of 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 did not appear for the January 27, 2014, Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before February 7, 2014 to explain his 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