

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

INTRODUCTION AND PROCEDURAL HISTORY

² Agency's Motion to Dismiss Employee's Petition for Appeal (April 3, 2025).

JURISDICTION

The jurisdiction of this Office has not been established.

ISSUES

Whether this Appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for 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 631.2 *id.* states:

For Appeals filed under § 604.1, 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 624.3, DCMR Ch. 600, et seq (December 27, 2021) grants an Administrative Judge the authority to “...dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal. 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 (emphasis added);
- (b) *Submit required documents after being provided with a deadline for such submission* (emphasis added); 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 for scheduled proceeds or fails to submit required documents.³ Here, Employee was warned in the Order for Statement of Good Cause issued on May 2, 2025, that failure to comply with the Order could result in sanctions, including dismissal. As of the date of this decision, Employee has not responded and provided a

³ See *David Bailey Jr. v. Metropolitan Police Department*, OEA Matter No. 1601-0007-16 (April 14, 2016).

written response to the May 2, 2025, Order. Employee's response was required to make an informed decision regarding the resolution of this matter. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and Employee's inaction presents a valid basis for dismissing this matter. Consequently, I further find that this 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:

/s/ Natiya Curtis
Natiya Curtis Esq.
Administrative Judge