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

_____	)	
In the Matter of:	)	
	)	
KEITH WILLIAMS,	)	
Employee	)	OEA Matter No. 1601-0005-12
	)	
v.	)	Date of Issuance: October 2, 2013
	)	
D.C. DEPARTMENT OF	)	
TRANSPORTATION,	)	
Agency	)	Eric T. Robinson, Esq.
	)	Senior Administrative Judge
_____	)	
Keith Williams, Employee	)	
J. Carl Wilson, Esq., Agency Representative	)	

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On October 7, 2011, Keith Williams (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) contesting the District of Columbia Department of Transportation (“the Agency”) action of removing him from service. I was assigned this matter on or about July 26, 2013. On August 1, 2013, I issued an Order Convening a Prehearing Conference. The prehearing conference was originally scheduled to occur on September 5, 2013. This order required the parties to appear for this proceeding at the OEA and it required both parties to submit prehearing statements on or by August 20, 2013. On the date and time prescribed for the prehearing conference both the Agency representative and I were ready to proceed; however, Employee failed to appear. Moreover, Agency, through counsel, timely submitted its prehearing statement. Employee did not submit his prehearing statement.

On September 5, 2013, I issued an Order for Statement of Good Cause (“Good Cause Order”) to Employee that required him to provide a good reason for his failure to appear for the prehearing conference and he was required to submit his prehearing statement. Employee’s response to the Good Cause Order was due on or before September 20, 2013. To date, Employee has not submitted a response to my Good Cause Order nor has he submitted his prehearing statement. Given the instant circumstances, I have determined that no further proceedings are

warranted. The record is now closed.

### JURISDICTION

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

### ISSUE

Whether this matter should be dismissed.

### BURDEN OF PROOF

OEA Rule 628 *et al*, 59 DCR 2129 (March 16, 2012) states:

628.1 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 the 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.

628.2 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.

### FINDING OF FACTS, ANALYSIS, AND CONCLUSIONS

OEA Rule 621.3, *id.*, states as follows:

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 does not appear for scheduled proceedings after having received notice or fails to submit

required documents. *See, e.g., Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985). Here, Employee did not appear for the prehearing conference as scheduled and he did not submit a statement of good cause in an attempt to explain his inaction. All of the preceding was required for a proper resolution of this matter on its merits. Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Accordingly, I find that this matter should be dismissed.

ORDER

It is hereby ORDERED that this matter be DISMISSED due to Employee's failure to prosecute his petition for appeal.

FOR THE OFFICE:

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ERIC T. ROBINSON, ESQ.  
Senior Administrative Judge