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

In the Matter of:	)	
	)	
EMPLOYEE,	)	OEA Matter No. 1601-0032-24
	)	
	)	Date of Issuance: July 12, 2024
v.	)	
	)	JOSEPH E. LIM, ESQ.
DC FIRE & EMERGENCY MEDICAL	)	SENIOR ADMINISTRATIVE JUDGE
SERVICES DEPARTMENT,	)	
<u>Agency</u>	)	
Employee <i>pro se</i>		
Millicent Jones, Esq. Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On February 22, 2024, Employee filed a Petition for Appeal with the D.C. Office of Employee Appeals (“OEA” or “Office”) contesting the D.C. Fire & Medical Services’ (“Agency” or “DCFEMS”) decision to terminate him from his position as a Fire Fighter effective January 26, 2024, due to testing positive for a controlled substance. On February 22, 2024, OEA issued a letter requiring Agency to submit an Answer in this matter. On March 14, 2024, Agency submitted its Answer to Employee’s Petition for Appeal.

This matter was assigned to the undersigned Senior Administrative Judge (“AJ”) on March 14, 2024. On April 23, 2024, I issued an Order scheduling a Prehearing Conference for June 5, 2024, and ordered the submission of Prehearing Statements. While Agency complied with this Order, Employee did not. As a result, I issued a Show Cause Order on June 5, 2024, requiring Employee to show cause for his failure to appear for the Prehearing Conference and submit a Prehearing Statement. Employee had to submit a response by June 17, 2024. As of the date of this decision, Employee has not responded to either Order. 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 appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 624.3 states in relevant part 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 or defend an appeal includes, but is not limited to, a failure to:<sup>1</sup>

- (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. (Emphasis added).

This Office has consistently held that failure to prosecute an appeal includes a failure to appear and/or a failure to submit required documents after being provided with a deadline for such a submission.<sup>2</sup> In this matter, Employee failed to submit a Prehearing Statement or appear at the scheduled Prehearing Conference. Employee also failed to respond to a Show Cause Order issued in this matter.

Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. I further find that Employee’s failure to prosecute his appeal is a violation of OEA Rule 624. For these reasons, this matter should be dismissed for failure to prosecute.

ORDER

It is hereby **ORDERED** that the petition in this matter is **DISMISSED** for failure to prosecute.

FOR THE OFFICE:

*s/ Joseph Lim*  
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JOSEPH E. LIM, ESQ.  
Senior Administrative Judge

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<sup>1</sup> 68 DCR 012473 (December 27, 2021).

<sup>2</sup> *Williams v. D.C. Public Schools*, OEA Matter 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).