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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
SHAYLA CHAVIES)	
Employee)	OEA Matter No. 1601-0091-14
))	
v.)	Date of Issuance: February 25, 2015
))	
OFFICE OF THE STATE)	Lois Hochhauser, Esq.
SUPERINTENDENT OF EDUCATION)	Administrative Judge
Agency)	
_____)	
Shayla Chavies, Employee <i>Pro Se</i>	
Zoe Cooper Thomas, Esq., Agency Representative	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On June 20, 2014, Shayla Chavies, Employee, filed a petition for appeal with the Office of Employee Appeals (OEA) appealing the decision of the Office of the State Superintendent of Education, Agency, to terminate her employment as a Bus Attendant, effective June 6, 2014. I was assigned the matter on or about October 14, 2014.

On October 27, 2014, I issued an Order scheduling the prehearing conference (PHC) for November 17, 2014. The PHC was rescheduled several times. On December 22, 2014, I issued an Order scheduling the PHC for 3:00 p.m. on January 27, 2015. The Order stated, in pertinent part, that parties were required to attending scheduling proceedings on time; and that failure to do so, could result in the imposition of sanctions. The Order was sent to Employee by first class mail, postage prepaid, at the address she listed in her petition as her mailing address. It was not returned to OEA, and is presumed to have been received by Employee in a timely manner.

On January 27, 2015, Agency Representative appeared for the PHC in a timely manner. However, Employee did not appear and did not contact OEA or the undersigned. At 3:45 p.m.,

Agency Representative was excused.

On January 28, 2015, I issued an Order directing Employee to show good cause for her failure to appear at the scheduled prehearing conference. She was notified that if she did not file her response by the deadline of February 12, 2015; the record would close and sanctions could be imposed, including dismissal of the petition, without further notice. This Order was also mailed to Employee by first class mail, postage prepaid, at the address listed in her petition. It was not returned to OEA, and is presumed to have been received by Employee in a timely manner. Employee did not respond to the Order, and did not contact the undersigned to request an extension. The record therefore closed on February 12, 2015.

JURISDICTION

The jurisdiction of this Office was not established.¹

ISSUE

Should this petition be dismissed?

FINDING OF FACTS, ANALYSIS, AND CONCLUSIONS

OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), states in pertinent part:

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.

Employee failed to prosecute her appeal in two ways. First, she failed to appear at the PHC, a scheduled proceeding, after receiving timely notice. Second, she failed to submit a required document for which a deadline had been imposed. As noted above, both the Order scheduling the PHC and the Order directing Employee to respond for her failure to attend the PHC, were sent to Employee by first class mail, postage prepaid, to the address listed by Employee in her petition for appeal. Neither document was returned to OEA as undelivered.

¹ In her petition, Employee stated that she did not know the type of service she held. Since the type of service impacts on the jurisdiction of this Office, and since this matter was never clarified; the Administrative Judge could not determine if this Office had jurisdiction to hear this matter.

Both are presumed to have been received by Employee in a timely manner. Both Orders contained language cautioning Employee that failure to comply could result in the imposition of sanctions, including the dismissal of her petition, without further notice. Employee did not attend the PHC, although she was notified of the scheduled date and time. She did not file her response to the January 28, 2015 Order, although she was provided with a filing deadline. Employee did not contact the undersigned or OEA to request an extension or explain the reason for her noncompliance.

The Administrative Judge concludes that Employee's failure to attend the scheduled prehearing conference violates OEA Rule 621.3(a). She further concludes that Employee's failure to submit a response to the January 28, 2015 Order by the stated deadline, violates OEA Rule 621.3(b). The Administrative Judge, in the exercise of sound discretion, further concludes that based on Employee's failures to prosecute this matter, her petition for appeal should be dismissed.

It is now:

ORDERED: This petition for appeal is dismissed.

FOR THE OFFICE:

Lois Hochhauser, Esq.
Administrative Judge