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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
MARCUS STEELE)	OEA Matter No. 1601-0031-10
Employee)	
v.)	Date of Issuance: January 4, 2012
DISTRICT OF COLUMBIA DEPARTMENT)	Lois Hochhauser, Esq.
OF DISABILITY SERVICES)	Administrative Judge
Agency)	

Ross Buchholz, Esq., Agency Representative
Marcus Steele, Employee *pro se*

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

Marcus Steele, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on October 9, 2009, appealing the decision of the District of Columbia Department of Disability Services, Agency herein, to remove him from his position as Service Coordinator, effective September 9, 2009. The matter was assigned to me on July 21, 2011.

On July 22, 2011, I issued an Order scheduling a prehearing conference for August 16, 2011. Ross Buchholz, Esq., Agency Representative, appeared at the scheduled time, but Employee, who was appearing *pro se*, did not. I issued an Order on August 17, 2011 directing Employee to show good cause for his failure to attend the prehearing conference or to contact me if he could not be present. Employee responded in a timely manner and presented the reasons for his absence. Agency was given the opportunity to oppose Employee's request that his petition not be dismissed, but did not do so. On October 14, 2011, I concluded that Employee had shown good cause for his absence, and scheduled another prehearing conference for November 4, 2011.

Both Employee and Agency Representative attended the November 4 prehearing conference and a hearing date of December 21, 2011 was agreed upon by the parties. I issued a Hearing Order on November 21, 2011 memorializing the decisions reached at the prehearing conference.

Several weeks before the hearing date, the parties contacted me and advised me that they were in settlement negotiations.¹ They requested that the hearing be postponed to afford them

¹ In addition to written Orders, communications with the parties were conducted by telephone conferences and emails.

time to complete negotiations. I granted their request. On December 16, 2011, the parties notified me that the matter had been resolved. They provided me with a copy of the executed Settlement Agreement which included a provision requiring Employee to request the dismissal of the appeal with prejudice. I advised the parties that Employee would have to file a written and signed request seeking the dismissal of his petition for appeal, before the petition could be dismissed. On December 19, 2011, Employee filed a document with this Office, entitled "Employee's Withdrawal of Petition for Appeal With Prejudice" in which he requested that as part of the parties' December 14, 2011 Settlement Agreement, he was withdrawing his petition for appeal with prejudice. The record in this matter closed on December 19, 2011.

JURISDICTION

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

ISSUE

Should the petition be dismissed with prejudice?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

The parties submitted a Settlement Agreement stating that all outstanding matters had been resolved. The agreement includes a provision that Employee would seek the dismissal of his petition for appeal with prejudice. Employee submitted a signed document requesting that his petition for appeal be dismissed with prejudice. D.C. Code §1-606.06 (2001) requires the Administrative Judge to dismiss a matter with prejudice if the parties settle a matter without a decision on the merits. Employee has represented both verbally and in writing that all issues have been settled by the parties and that his petition for appeal should be dismissed with prejudice. Employee submitted a signed petition requesting that his appeal be withdrawn with prejudice.

Based on the successful resolution of all issue by the parties culminating in an executed Settlement Agreement, and further based on Employee's written request, pursuant to that Agreement, that his petition be withdrawn or dismissed with prejudice, the Administrative Judge concludes that the petition for appeal should be dismissed with prejudice.

The parties are commended for their success in resolving this matter.

ORDER

Based on these findings and conclusions, and consistent with this analysis, it is hereby ordered that the petition for appeal be dismissed with prejudice.

FOR THE OFFICE:

LOIS HOCHHAUSER, Esq.
Administrative Judge