

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Administrative Assistant of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
PHYLLIS WILLIAMS)	OEA Matter No. 2401-0058-03
Employee)	
)	Date of Issuance: October 26, 2005
v.)	
)	
DISTRICT OF COLUMBIA)	
DEPARTMENT OF MENTAL HEALTH)	
Agency)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Phyllis Williams (“Employee”) was an Administrative Officer at the D.C. Department of Mental Health (“Agency”). On March 5, 2003, Employee filed a Petition for Appeal on the basis of a reduction in force (“RIF”) action. Employee provided in her Petition for Appeal that she received notice of the RIF on January 24, 2003. According to Employee, the RIF was effective on February 28, 2003.

Employee did not provide the Office of Employee Appeals (“OEA”) with a copy of the RIF notice. As a result, on October 16, 2003, the OEA mailed a letter to Employee requesting that she provide the office with a copy of the final agency decision.

The letter expressly gave Employee until the close of business on October 27, 2003, to render a copy of the decision to the OEA. The letter also provided that if she failed to comply with the request, then her appeal may be dismissed for lack of jurisdiction. Employee did not comply with the OEA's request by the deadline. On November 5, 2003, the Administrative Judge issued an Initial Decision dismissing the case on the basis of Employee's failure to prosecute.

On February 26, 2004, the OEA received a Petition for Review from Employee. The Petition for Review provided that Employee did not submit the requested final agency decision within the specified period because she was not clear of what a final agency decision was. Along with her Petition for Review Employee provided a copy of her personnel action sheet; a copy of the letter sent to her from the OEA requesting the final agency decision; and the first page of the Initial Decision issued by the OEA.

OEA Rules speak directly to the requirement of final agency decisions to establish the office's jurisdiction. OEA Rule 609.2(e) provides:

"A petition of appeal made without the use of the form of the Office shall be in writing and contain the following information:

... (e) A copy of the agency's notice of final decision."

Moreover, OEA Rule 609.4 provides that "the Office shall not consider the filing of a petition for appeal complete until the employee provides all of the information required under Rule 609.2 and 609.3."

In *Copeland v. Department of Corrections*, OEA Matter No. 2401-0056-02, *Opinion and Order on Petition for Review*, (March 5, 2003), __ D.C. Reg. __ (), the OEA Board provided that if an employee fails to comply with OEA rules and has their

case dismissed for failure to prosecute, then they would have to uphold the dismissal. Additionally, the OEA has previously ruled in *Scott v. D.C. Public Schools*, OEA Matter No. 2401-0047-03 (March 15, 2004), ___ D.C. Reg. ___ () and *Miller v. D.C. Public Schools*, OEA Matter No. 2401-0134-04 (August 27, 2004) ___ D.C. Reg. ___ (), that a matter may be dismissed when a party fails to submit a Final Agency Decision after being ordered to do so.

The Board has the authority to exercise its discretion on a case-by-case basis when a party fails to comply with an OEA request. Employee was given ample notice to supply the Final Agency Decision and was informed of the consequences of not doing so. However, she neglected to provide the document and did not offer a reasonable rationale for her failure to comply with the order. Therefore, we hereby deny Employee's Petition for Review.

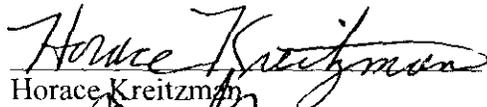
ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

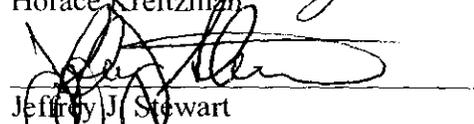
FOR THE BOARD:



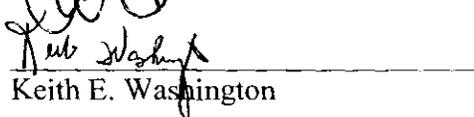
Brian Lederer, Chair



Horace Kreitzman



Jeffrey J. Stewart



Keith E. Washington

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.