

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Phillip Coles)	OEA Matter No. 2401-0160-09
Employee)	
)	Date of Issuance: October 1, 2010
v.)	
)	Senior Administrative Judge
D.C. Child & Family Services)	Joseph E. Lim, Esq.
Agency)	
_____)	

Frank McDougald, Esq., Agency Representative
Stephen White, Esq., Employee Representative

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On July 13, 2009, Employee, a Child Information Systems Administrator, DS-301-12-01-N, filed a petition for appeal with this Office from Agency's final decision separating him from Government service effective June 12, 2009, due to budgetary reasons. The matter was assigned to the undersigned on February 24, 2010. After a postponement requested by Employee, I issued an Order directing the parties to attend a June 2, 2010 Prehearing Conference and to submit a Prehearing Statement by May 17, 2010. Agency complied, but Employee did not.

On June 3, 2010, I ordered Employee to show cause for his non-compliance. Despite prior warnings that failure to comply could result in sanctions, including dismissal; to date, Employee failed to respond. The record is 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.

ANALYSIS AND CONCLUSION

OEA Rule § 622.3, 46 D.C. Reg. 9313 (1999) provides 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.

The employee was warned in each order that failure to comply could result in sanctions including dismissal. The employee never complied. Employee’s behavior constitutes a failure to prosecute her appeal and that is sound cause for dismissal.

ORDER

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

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge