

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
Joyce Ferrell	)	OEA Matter No. 1601-0318-10
Employee	)	
	)	Date of Issuance: April 3, 2013
v.	)	
	)	Joseph E. Lim, Esq.
D.C. Public Schools	)	Senior Administrative Judge
Agency	)	

Joyce Ferrell, Employee *pro se*  
Sarah White, Esq., Agency Representative

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On June 7, 2010, Employee filed a petition for appeal with this Office from Agency's final decision terminating her from her position of Educational Aide for violating 5 DCMR §1401.2 (t) Violation of the rules, regulations, or lawful orders of the Board of Education or any directive of the Superintendent of Schools, issued pursuant to the rules of the Board of Education. The matter was assigned to the undersigned judge on July 10, 2012. I issued an Order directing the parties to submit a Prehearing Statement and to attend an August 13, 2012, Prehearing Conference. Because Agency's representative was scheduled for surgery with an undetermined recovery period, the parties were instructed to consult with each other and appraise me of possible dates for a hearing. Around January 2013, Agency informed me that they were ready to proceed with the hearing. However, their attempts in contacting Employee had been fruitless. My own attempts at contacting Employee, both by phone and email, had likewise been to no avail. Thus, on February 27, 2013, I issued an Order for Good Cause Statement to Employee.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to respond to numerous phone calls and emails as well as to an Order for Good Cause Statement. The order stated, in pertinent part, that failure to respond in a timely manner could result in the imposition of sanctions, including the dismissal of the petition. The Order was mailed to Employee by first class mail, postage prepaid to the address listed on her petition for appeal. The Order was returned to OEA with the notation: "Attempted, Not Known, Unable to Forward". There is nothing in the file to indicate that Employee notified this Office that her address had changed. 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 § 621.3, 59 D.C. Reg. 2129 (2012) 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