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**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
JEROME GREAR,	)	
Employee	)	OEA Matter No. 2401-0266-09
	)	
v.	)	Date of Issuance: March 22, 2011
	)	
OFFICE OF PUBLIC EDUCATION	)	
FACILITIES MODERNIZATION,	)	MONICA DOHNJI, Esq.
Agency	)	Administrative Judge
_____	)	
Charles J. Brown, Jr., Esq., Agency Representative	)	
Jerome Grear, <i>Pro se</i>	)	

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On September 03, 2009, Jerome Grear (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Office of Public Education Facilities Modernization’s (“Agency”) action of abolishing his position as a Warehouse Worker through a Reduction-In-Force (“RIF”). I was assigned this matter on February 09, 2011. On February 11, 2011, I issued an Order directing the parties to attend a Prehearing Conference set for March 10, 2011, and to submit a Prehearing statement by March 01, 2011. The Order specifically noted that if either party did not appear at the prehearing conference, sanctions may be imposed pursuant to OEA Rule 622, 46 D.C. Reg. at 9312. Agency complied, but Employee did not. On March 10, 2011, I issued an Order for Statement of Good Cause to Employee. The deadline for responding to this Order was March 18, 2011. To date, nothing has been received by this Office in response. This record is now 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. at 9313 (1999) provides as follow:

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.

This Office has held that a matter may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding or fails to submit required documents.<sup>1</sup> Here, Employee was warned in each Order that failure to comply could result in sanctions including dismissal. Employee did not appear at the Prehearing Conference, and did not provide a written response to my Order for Statement of Good Cause. Both were required for a proper resolution of this matter on its merit. I conclude that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and that therefore, the matter should be dismissed for his failure to prosecute.

ORDER

It is hereby **ORDERED** that the petition in this matter is dismissed for Employee's failure to prosecute his Appeal.

FOR THE OFFICE:

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MONICA DOHNJI, Esq.  
Administrative Judge

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<sup>1</sup> *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010), \_\_\_ D.C. Reg. \_\_\_ ( ); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010), \_\_\_ D.C. Reg. \_\_\_ ( ).