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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0186-12C18
THOMAS PIERRE,)	
Employee)	
)	Date of Issuance: October 30, 2018
v.)	
)	
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,)	
Agency)	
)	
)	Arien P. Cannon, Esq.
)	Administrative Judge
_____)	
H. David Kelly, Jr., Esq., Employee Representative)	
Carl Turpin, Esq., Agency Representative)	

ADDENDUM DECISION ON COMPLIANCE

INTRODUCTION AND PROCEDURAL BACKGROUND

On September 30, 2014, an Initial Decision was issued by the undersigned reversing the District of Columbia Public Schools' ("DCPS" or "Agency") decision to terminate Thomas Pierre ("Employee") from his position as a Teacher. This Initial Decision was affirmed by the OEA Board on May 10, 2016. Agency elected to appeal the OEA Board's Opinion and Order to the District of Columbia Superior Court. On November 4, 2016, Agency's appeal to the D.C. Superior Court was "Dismissed [] per Praeceptum." Agency effectively withdrew its appeal before the District of Columbia Superior Court.

On May 26, 2017, Agency filed a Motion for Status Conference before this Office to resolve all remaining issues in this matter. A Status Conference was convened on June 27, 2017, to address the outstanding compliance issues. A number of Status Conferences have been held since Employee's Motion to Enforce was filed. There were also briefs filed addressing Employee's prior counsel's Motion for Attorney Fees. An Order addressing the Attorney Fees filed by Employee's prior counsel, Raymond Jones was issued on September 18, 2017.

After issues arose between Employee and his prior counsel, Mr. Jones, Employee retained Mr. H. David Kelly, Jr., to litigate the outstanding compliance issues. At a January 30,

2018 Status Conference, it was revealed by Employee's new counsel, Mr. Kelly, that Employee received a back pay check just days prior to the January 2018 Status Conference. The check was not accompanied by any documents or description of how the check amount was calculated. Employee disputed the amount of the back pay check and asserted that Agency used the incorrect dates in which the back pay check should have covered. In a March 2, 2018 Order, Employee was ordered to file a brief addressing why he believed the amount of his back pay check was incorrect. Employee filed his brief on March 8, 2018. Agency submitted a response on March 12, and March 28, 2018. The undersigned was informed after the submissions of the parties brief, that they were in settlement discussions regarding the compliance issues. Prior to a decision regarding compliance on the matter, a Notice of Withdrawal of Appeal was submitted by the Employee, via email on October 29, 2018, as a result of the settlement discussions. A hard copy of the Notice of Withdrawal of Appeal was subsequently submitted to this Office.

JURISDICTION

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

ANALYSIS AND CONCLUSION

D.C. Official Code §1-606.06(b) (2001) states in pertinent part, that:

If the parties agree to a settlement without a decision on the merits of the case, a settlement agreement, prepared and signed by all parties, shall constitute the final and binding resolution of the appeal, and the [Administrative Judge] shall dismiss the appeal with prejudice.

Here, a Notice of Withdrawal of Appeal was filed by Employee, indicating that all outstanding compliance issues in this matter are no longer in dispute. Accordingly, I find that Employee's Motion to Enforce¹, filed on December 21, 2017, shall be dismissed.

ORDER

It is hereby **ORDERED** that Employee's Motion to Enforce [the Initial Decision] Order is **DISMISSED**.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge

¹ This motion is also referred to as a Motion for Compliance throughout the record.