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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
LAMECCA SMITH)	OEA Matter No. 2401-0199-04
Employee)	
)	Date of Issuance: October 14, 2005
v.)	
)	Daryl J. Hollis, Esq.
)	Senior Administrative Judge
D.C. PUBLIC SCHOOLS)	
Agency)	

LaMecca Smith, *Pro se*
Harriet Segar, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

On July 30, 2004, Employee, a Teacher, Elementary at Hardy Middle School, filed a petition for appeal from Agency's action allegedly separating her from Government service pursuant to a reduction-in-force (RIF).

This matter was assigned to me on August 12, 2005. I scheduled a Prehearing Conference for September 13, 2005. My scheduling order was mailed to Employee at her address of record on August 12, 2005. However, on or around August 19, 2005, the letter was returned to the Office with the notation: "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." Pursuant to the Order, Employee was required to submit a Prehearing

Statement to me by the close of business on September 6, 2005. This she did not do. Further, she did not appear for the Prehearing. 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 matter should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSIONS

OEA Rule 622.3, 46 D.C. Reg. 9313 (1999), reads in pertinent part as follows:

If a party fails to take reasonable steps to prosecute . . . an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action. . . . Failure of a party to prosecute . . . 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 the Office of a change of address which results in correspondence being returned.

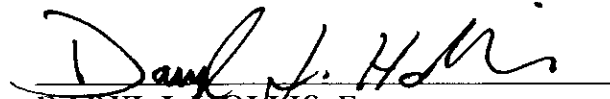
This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding or fails to submit required documents. *See, e.g., Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985). Further, this Office has likewise held that a matter may be dismissed for failure to prosecute when a party fails to inform the Office of a change of address which results in correspondence being returned. *See, e.g., Employee v. Agency*, OEA Matter No. 1601-0141-95 (April 16, 1996), __ D.C. Reg. ____ (); *Byrd v. Department of Corrections*, OEA Matter No. 2401-0063-02 (October 17, 2003), __ D.C. Reg. ____ ().

Here, my August 12, 2005 Order that was mailed to Employee's address of record was returned undelivered to the Office. Further, Employee did not submit the required Prehearing statement and did not appear for the Prehearing. I conclude that Employee's inactions constitute a failure to prosecute. Therefore, the matter should be dismissed.¹

ORDER

It is hereby ORDERED that this matter is DISMISSED.

FOR THE OFFICE:


DARYL J. HOLLIS, Esq.
Senior Administrative Judge

¹ I note that in its Answer to Employee's petition for appeal, Agency moved for dismissal of the matter on the grounds that Employee was never separated from service, but rather accepted another position in lieu of separation. Attached to the Answer were documents supporting Agency's position.