

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)
)
DENISE THOMAS,)
Employee)
)
v.)
)
D.C. DEPARTMENT OF)
CORRECTIONS,)
Agency)

OEA Matter No. 1601-0012-06
Date of Issuance: March 14, 2006

ERIC T. ROBINSON, Esq.
Administrative Judge

Denise Thomas, Employee Pro-Se
Fred Staten Jr., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On November 7, 2005, Denise Thomas (hereinafter, “the Employee”) filed a Petition for Appeal with the Office of Employee Appeals (hereinafter, “the Office”) contesting the District of Columbia Department of Corrections (hereinafter, “the Agency”) adverse action terminating her employment. I was assigned this matter on January 13, 2006. On that same date, I issued an Order Convening a Prehearing Conference for February 23, 2006 with Prehearing Statements due by February 9, 2006. On January 20, 2006, I issued an Order Rescheduling the Prehearing Conference. Pursuant to that Order, the Prehearing Conference was rescheduled for February 28, 2006, with Prehearing Statements now due by February 14, 2006. As of the date of this Decision, the Employee has not submitted her Prehearing Statement. On February 28, 2006, both the Agency Representative and I were present and ready to proceed with the scheduled Prehearing Conference. The Employee did not appear for this proceeding. On the morning of the Prehearing Conference, the Employee left a voicemail message with this Office alleging that she was sick and needed to seek immediate medical treatment. I then issued an Order for Statement of Good Cause to Employee dated February 28, 2006. This Order required the Employee to respond in writing with her reason(s) for not appearing for the aforementioned Prehearing Conference.¹

¹ The Order for Statement of Good Cause dated February 28, 2006 stated in pertinent part: “You are hereby **ORDERED** to submit to me and to Mr. Staten, by the close of business on March 8, 2006, a statement of good cause for your failure to appear for the Prehearing Conference. The statement for good cause **MUST** contain a Doctor’s Note verifying that you were under the care of a physician at the time of the Prehearing Conference.”

The Order for Statement of Good Cause required a response from the Employee by March 8, 2006. To date, the Employee has not responded to this Order. The 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 matter should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS AND CONCLUSION

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 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:

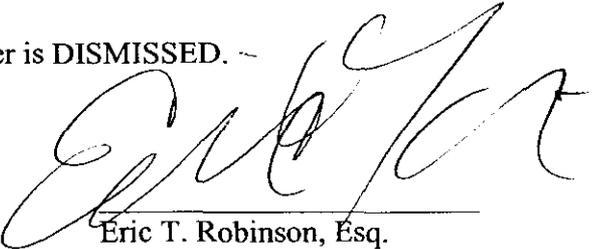
- (a) Appear at a scheduled proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission...

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, Jarvis v. D.C. Public Schools*, OEA Matter No. 2401-0197-04 (October 3, 2005), __ D.C. Reg. _____. Here, the Employee did not submit her Prehearing Statement, she failed to appear for the Prehearing Conference, and she failed to respond to my Order for Statement of Good Cause. All were required as part of her ongoing participation in this matter. I conclude that the Employee has failed to exercise the diligence expected of an appellant pursuing an appeal before this Office, and that therefore the matter should be dismissed for failure to prosecute.

ORDER

It is hereby ORDERED that this matter is DISMISSED. ~

FOR THE OFFICE:



Eric T. Robinson, Esq.
Administrative Judge