

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Richard Hairston)	OEA Matter No. 1601-0307-10A15
Employee)	
)	Date of Issuance: December 18, 2015
v.)	
)	Joseph E. Lim, Esq.
Department of Corrections)	Senior Administrative Judge
Agency)	
_____)	
Alan Banov, Esq., Employee Representative)	
Frank McDougald, Esq., Agency Representative)	

ADDENDUM DECISION ON ATTORNEY FEES

PROCEDURAL BACKGROUND

On May 3, 2010, Richard Hairston (“Employee”), a Correctional Officer, grade 8/10, filed a petition for appeal with the Office of Employee Appeals (“OEA”) from Agency's final decision effective April 3, 2010, removing him for committing “any on-duty or employment act or omission that interferes with the efficiency or integrity of government operations: misfeasance.”

This matter was originally assigned to me on July 10, 2012. I held a hearing on November 8 and 9, 2012. On April 30, 2013, I issued an Initial Decision (“ID”) which found that the misfeasance Employee incurred was a first offense, and hence, his penalty was excessive. Thus I modified Agency’s penalty to a fifteen (15) day suspension and ordered it to reinstate Employee to his last position of record and to reimburse Employee all back-pay and benefits lost as a result of Agency’s action.

Agency appealed the ID with the OEA Board on June 4, 2013, contending that the Table of Appropriate Penalties is advisory, not mandatory. On September 16, 2014, the OEA Board upheld the ID, holding that the Table of Appropriate Penalties is indeed mandatory.¹

On October 15, 2014, Employee submitted his petition for attorney fees. Agency responded. Subsequently, the parties engaged in settlement talks. On December 18, 2015, Employee’s counsel submitted a letter informing the undersigned that they had signed a settlement agreement regarding attorney fees. The record is closed.

¹ *Hairston v. Department of Corrections*, OEA Matter No. 1601-0307-10, *Opinion and Order on Petition for Review* (Sept. 16, 2014).

JURISDICTION

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

ISSUE

Whether the attorney fee petition should be dismissed.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

In accordance with OEA Rule 619.2(g), 59 DCR 2129 (March 16, 2012), an Administrative Judge may dismiss a case “based on a settlement agreement reached by the parties”. The documents submitted by the parties clearly state that the matter was settled and that Employee seeks to withdraw her motion and have her petition for attorney fees dismissed.

The Administrative Judge commends the parties on their successful resolution of this matter.

ORDER

Based on their signed settlement, it is hereby ORDERED that Employee’s motion for attorney fees is dismissed with prejudice.

FOR THE OFFICE:

JOSEPH E. LIM, ESQ.
Senior Administrative Judge