

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Faith Scott)	OEA Matter No. 1601-0071-07C11
Employee)	
)	Date of Issuance: November 29, 2011
v.)	
)	Joseph E. Lim, Esq.
Office of Property Management)	Senior Administrative Judge
Agency)	
_____)	

Kevin Turner, Esq., Agency Representative
Grandison E. Hill, Esq., Employee Representative

ADDENDUM DECISION ON COMPLIANCE

INTRODUCTION AND PROCEDURAL HISTORY

On May 4, 2007, Employee filed a petition for appeal with this Office from Agency's final decision removing her effective April 13, 2007, for malfeasance. At the prehearing conference on September 14, 2007, the parties informed me that they want to wait until the resolution of a corresponding criminal case before proceeding. During a January 20, 2010, status conference, the parties indicated an interest in mediation. However, the mediation on March 16, 2010, failed to produce a settlement. With new funding provided, I held a hearing on March 7, 2011, and issued an Initial Decision (ID) on March 15, 2011, whereby I ordered Agency to reverse its action against Employee within 30 days of the date on which this decision becomes final and to restore to Employee all pay and benefits of which she was deprived because of the termination. The decision became final thirty-five (35) calendar days after issuance.

On September 23, 2011, Employee filed a motion for compliance, complaining that although Agency had reinstated her in her position, they had not given back her back pay and benefits. In its November 10, 2011, response to my Show Cause Order, Agency stated that it had reinstated Employee and paid her one year of the three years back pay that she was owed. As for the remainder, they were in the process of working out her back pay. On November 18, 2011, Employee filed a second motion to enforce. On November 29, 2011, Employee complained that she still has not received the rest of her back pay more than seven months after it was due. 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 certified to the General Counsel.

ANALYSIS AND CONCLUSION

OEA Rule § 636.1, 46 D.C. Reg. at 9321 (1999) reads as follows:

636.1 Unless the Office's final decision is appealed to the District of Columbia Superior Court, the District agency shall comply with the Office's final decision within thirty (30) calendar days from the date the decision becomes final.

OEA Rule 636.8, *id.*, reads in pertinent part as follows:

If the Administrative Judge determines that the agency has not complied with the final decision, the Administrative Judge shall certify the matter to the General Counsel. The General Counsel shall order the agency to comply with the Office's final decision in accordance with D.C. Code § 1-606.2.

In a compliance matter, the administrative judge's role is to determine whether or not the agency has complied with the Office's final decision. Here, there is no question that Agency did not fully comply with the final decision within the 30-day time frame, nor has it done so to date. Therefore, pursuant to OEA Rule 636.8, *supra*, this matter is certified to the Office's General Counsel for appropriate action.

ORDER

It is hereby ORDERED that this matter be certified to the General Counsel.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge