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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	
ROBERT FORD Employee	OEA Matter No. J-0402-10
v.	Date of Issuance: March 7, 2011
D.C. DEPARTMENT OF PARKS AND RECREATION Agency	Lois Hochhauser, Esq. Administrative Judge

Robert Ford, Employee *pro se*
William Potterveld, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

Robert Ford, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on September 13, 2010, appealing the final decision of the District of Columbia Department of Parks and Recreation, Agency herein, to remove him from his position as Supervisory Recreation Specialist, effective August 30, 2011. At the time of his removal, Employee was in the Management Supervisory Service (MSS). Agency filed its response on October 15, 2010. On the same day, it also filed a Motion to Dismiss for Lack of Jurisdiction asserting that since Employee was in the MSS at the time of his removal, OEA did not have jurisdiction of this appeal.

The matter was assigned to me on January 10, 2011. I issued an Order on January 19, 2011, notifying Employee that jurisdiction was at issue in this matter and directing him to submit legal and/or factual argument supporting his claim that this Office has jurisdiction of this matter despite his status as an MSS employee. Employee was informed that he had the burden of proof on jurisdictional issues. He was notified that his submission had to be filed with OEA by 4:00 p.m. on February 11, 2011. He was further notified that failure to respond to the Order in a timely manner could result in the dismissal of the petition without further notice. The parties were advised that the record in this matter would close at 4:15 p.m. on February 11, 2011, unless they were advised to the contrary. Employee did not respond to the Order and did not contact the Administrative Judge or anyone at OEA to request additional time. The record closed, effective 4:15 p.m., on February 11, 2011.

JURISDICTION

The jurisdiction of this Office was not established.

ISSUE

Should this petition be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

. OEA Rule 622.3, 46 D.C. Reg. 9313 (1999), provides that a petition for appeal can be dismissed with prejudice if an employee fails to prosecute the appeal. The Rule states, in pertinent part, that the failure to prosecute includes the failure to "[s]ubmit required documents after being provided with a deadline for such submission." *See, e.g., Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985). The January 19, 2011 Order was sent to Employee by first class mail, postage prepaid, to the address listed by Employee as the address effective October 1, 2010. The Order was not returned to this Office, and is presumed to have been received by Employee. Employee did not contact the Administrative Judge or any employee at OEA about the matter in response to the Order. The Administrative Judge finds that Employee failed to comply with the January 19 Order which contained a deadline of February 11, 2011 and further finds that Employee failed to comply with OEA Rule 622.3. Based on the aforesaid findings and analysis, the Administrative Judge concludes that this petition for appeal should be dismissed.

ORDER

It is hereby ORDERED that the petition for appeal is DISMISSED.

Lois Hochhauser (RQ)

FOR THE OFFICE:

LOIS HOCHHAUSER, ESQ.
Administrative Judge