

CS  
B-39



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Keith Jones, New  
Jersey City University

Administrative Appeal

CSC Docket No. 2015-2696

ISSUED: **NOV 09 2015** (HS)

Keith Jones, a former Senior Building Maintenance Worker with New Jersey City University, requests that the Civil Service Commission (Commission) reinstate his appeal of his removal, which was dismissed based on his failure to appear at a scheduled settlement conference.

By way of background, after a departmental hearing, Jones was removed effective March 12, 2015 on charges of excessive absenteeism, violation of a Final Chance Agreement and unauthorized absence. Jones appealed his removal to the Commission, which transmitted the matter to the Office of Administrative Law (OAL) for a hearing as a contested case. On appeal, Jones indicated he was to be represented by International Federation of Professional and Technical Engineers (IFPTE), Local 195. The OAL scheduled the matter for a settlement conference on May 14, 2015.<sup>1</sup> The record indicates that Jones and Michael Scorzetti, representative, IFPTE Local 195, did not participate at the appointed time and based on their absences, the OAL issued a "Failure to Appear" notice that indicated that Jones and his representative failed to appear at the scheduled proceeding. On May 26, 2015, this matter was returned to the Commission for a final decision, with a notice giving the appellant 13 days to present any excuse for failure to appear to this agency.

<sup>1</sup> The notice indicated that failure to appear would result in the matter being returned to this agency.

In support of Jones' June 10, 2015 request to reinstate his appeal, he asserts that he hired Thomas J. Butler, Jr., Esq. to represent him in this matter.<sup>2</sup> However, Butler called Jones on the evening of May 13, 2015 to inform Jones that as he was to be in court on May 14, 2015, he would be unable to represent Jones at the settlement conference. Butler also apologized for any inconvenience and asked Jones to return his call. However, Jones states that he was unable to reach Butler as Butler's voicemail was full. Jones states that Butler's actions left him without a way to hire another attorney on such short notice and no transportation to the hearing as Butler was to drive him. Jones maintains that on the morning of the settlement conference, he called this agency and was informed that he should write a letter explaining his absence. Jones further claims that Butler still has not returned his call and that Jones' attempts to meet Butler at his office have been unsuccessful. Jones states that he is "putting [himself] on the mercy" of the Commission to reinstate his appeal. In support, Jones submits Butler's business card.

In response, the appointing authority, represented by Kyle E. Gruber, Deputy Attorney General (DAG), argues that Jones' appeal should not be reinstated merely because he has requested sympathy. It states that Jones failed to provide any notice prior to his failure to appear at the May 14, 2015 settlement conference. It argues that Jones had over a month's notice of the date of the settlement conference. While noting that there is no evidence beyond Jones' word to support his assertion of reliance on his attorney for transportation, the appointing authority nevertheless contends that Jones had sufficient time to plan contingencies for transportation. Specifically, it argues that Jones could have availed himself of public train service in conjunction with bus or taxi service.

### CONCLUSION

The appellant has clearly not sustained his burden of proof in this matter. The appellant claims that he had hired an attorney to represent him at the settlement conference and that the attorney was to provide him with transportation. According to the appellant, the attorney informed the appellant on the evening before the settlement conference that he would be unable to represent the appellant since he was to be in court. However, the appellant has not produced any type of statement from the attorney that would corroborate the appellant's explanation. Moreover, while the appellant states that he called this agency on the morning of the settlement conference, there is no indication that he attempted to contact the OAL. Accordingly, the appeal is dismissed based on the appellant's and his representative's failure to appear at the May 14, 2015 settlement conference.

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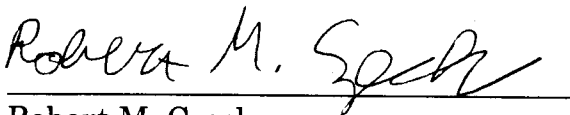
<sup>2</sup> It is noted that Butler does not appear on the OAL's Service List.

**ORDER**

Therefore, it is ordered that Keith Jones' request to reinstate his appeal be denied and his appeal be dismissed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 5<sup>TH</sup> DAY OF NOVEMBER, 2015



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