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STATE OF NEW JERSEY

DECISION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jennifer Dalton and
Monica Gordon
City of Atlantic City

Administrative Appeal

CSC Docket Nos. 2015-2408
and 2015-2425

ISSUED: **JUL 16 2015** (SLK)

Jennifer Dalton, a Senior Public Safety Telecommunicator, and Monica Gordon, a Training Coordinator with Atlantic City, both represented by Robert F. O'Brien, Esq., request that the Civil Service Commission (Commission) reinstate their appeals of their suspensions, which were dismissed based on their failure to appear at a scheduled conference. These appeals have been consolidated due to common issues presented.

By way of background, Ms. Dalton received a 10-day suspension following sustained charges of unauthorized use of a cell phone, insubordination, other sufficient cause, and violation of personnel policies and procedures. Ms. Gordon received a 25-day suspension following sustained charges of conduct unbecoming a public employee, other sufficient cause, and violation of personnel policies and procedures. The appellants appealed their sanctions to the Commission, which transmitted the matters to the Office of Administrative Law (OAL). The OAL scheduled the matters for prehearing conferences on April 14, 2015. The record indicates that the appellants' counsel and the appellants did not appear at the appointed times and based on their absences, the OAL issued "Failure to Appear" notices which indicated that the appellants failed to appear at the scheduled proceedings. On April 20, 2015, the matters were returned to the Commission for a final decision, with a notice giving the parties 13 days to present any excuse for failure to appear to this agency.

In support of the requests to reinstate the appellants' appeals, the appellants' representative, Mr. O'Brien, indicates that due to a miscommunication in his office, he and the appellants failed to appear.

In response, the appointing authority, represented by John R. Domnity, Esq., provides that it does not oppose reinstating these matters at the OAL.

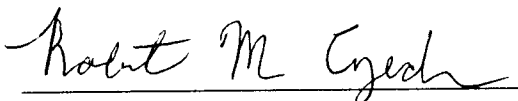
CONCLUSION

With regard to the instant matter, the record indicates that the appellants' counsel and the appointing authority were notified of the conferences scheduled on April 14, 2015. The appellants do not bear any individual responsibility for their counsel's miscommunication in his office and their failure to participate in the scheduled conferences on April 14, 2015. *N.J.A.C. 1:1-3.3(b)* provides that any explanation for failure to appear must be in writing and received by the transmitting agency head within 13 days of the date of the Clerk's notice returning the case. Moreover, the appointing authority does not oppose this matter being reinstated at the OAL. Therefore, the record as a whole indicates that the appellants intended to pursue their statutory right to challenge their suspensions, and they did not intend to abandon their appeals. Accordingly, the Commission finds that under all of the circumstances in this matter, to deny the appellants a hearing on the merits of their disciplinary actions would be unjust.

ORDER

Therefore, it is ordered that Jennifer Dalton's and Monica Gordon's requests to reinstate their appeals be granted and these matters be transmitted to the OAL for further proceedings.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15th DAY OF JULY, 2015



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and
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