

B-71



STATE OF NEW JERSEY

In the Matter of Frederick Webb,
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1932

Administrative Appeal

ISSUED: **JUL 20 2015** (LDH)

Frederick Webb, a Senior Correction Officer with Bayside State Prison, requests that the Civil Service Commission (Commission) reinstate his appeal of his 15-day suspension, which was dismissed based on his failure to appear for a prehearing conference.

By way of background, after a departmental hearing, Webb received a 15-day suspension on charges of chronic or excessive absenteeism and violation of departmental policy. Webb appealed his suspension to the Commission, which transmitted the matter to the Office of Administrative Law (OAL) for a hearing as a contested case. On appeal, Webb indicated he was to be represented by PBA, Local 105. The OAL scheduled the matter for a telephone prehearing conference on April 14, 2015.¹ The record indicates that Lance Lopez, President, PBA Local 105, Webb's representative, did not participate at the appointed time and based on his absence, the OAL issued a "Failure to Appear" notice which indicated that the appellant's representative failed to appear at the scheduled proceeding. On April 27, 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.

In support of Webb's request to reinstate his appeal, he indicates, in an undated letter, that he was unaware of the telephone conference on April 14, 2015 as he would have been present for the conference if he had been notified. Webb also

¹ The telephone conference was limited to attorneys, approved non-lawyer representatives and pro-se appellants.

asserts that the appointing authority was unaware of the conference since he was scheduled to work that day. He believes that he was deliberately not told of the conference to cast him in a bad light. Webb's representative, Lopez, did not submit a response. Therefore, Webb requests the opportunity to reschedule the telephone conference.

In response, the appointing authority, represented by Kathleen Asher, Esq., states that the Department of Corrections (DOC) was present for the telephone conference that was scheduled on April 14, 2015. Moreover, the DOC maintains that it was not responsible for notifying Webb of the scheduled telephone conference or adjusting his work schedule.

CONCLUSION

The appellant has clearly not sustained his burden of proof in this matter. While he states that he was unaware of the prehearing conference on April 14, 2015, there is evidence that his designated representative, Lopez, was notified of the conference. Specifically, Lopez was listed on OAL's Service List as Webb's representative. Additionally, since the telephone conference was limited to attorneys, approved non-lawyer representatives and pro-se appellants, it was incumbent upon Lopez to be available for the telephone conference, and not Webb himself, since Webb had indicated he was represented. Moreover, despite an opportunity to do so, neither Webb nor Lopez provides any explanation for Lopez's failure to appear for the telephone conference. Accordingly, the appeal is dismissed based on Lopez's failure to appear at the April 14, 2015 prehearing conference.

ORDER

Therefore, it is ordered that Frederick Webb's 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 15th DAY OF JULY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Hearings Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Frederick Webb
Lance Lopez
Kathleen Asher, Esq.

