

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 31ST DAY OF JULY, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
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Christopher S. Myers
Director
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44 S. Clinton Ave.
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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. CSV 01865-19

AGENCY DKT. NO. 2019-1724

**IN THE MATTER OF JASMIA BUTLER,
CITY OF JERSEY CITY, DEPARTMENT
OF PUBLIC SAFETY.**

Jasmia Butler, appellant, pro se

James B. Johnston, Assistant Corporation Counsel, for respondent City of
Jersey City (Peter J. Baker, Corporation Counsel)

Record Closed: July 11, 2019

Decided: July 12, 2019

BEFORE KELLY J. KIRK, ALJ:

STATEMENT OF THE CASE

Appellant Jasmia Butler appeals the action by respondent City of Jersey City releasing her from employment as a parking enforcement officer at the end of the working test period.

PROCEDURAL HISTORY

By letter dated December 17, 2018, the City of Jersey City (the City) notified Jasmia Butler that her employment as a provisional parking enforcement officer for the City was terminated effective December 18, 2018, for unsatisfactory performance during the working test period. By letter dated December 19, 2018, Butler appealed the termination. The Civil Service Commission transmitted the contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13 to the Office of Administrative Law (OAL), where it was filed on January 31, 2019.

By notice of hearing dated April 26, 2019, a hearing was scheduled for May 28, 2019 at 9:30 a.m. at the OAL. Counsel for the City and a witness appeared, but Butler failed to appear and failed to contact the OAL. Later that day, counsel for the City e-mailed the undersigned, advising that he had received two e-mails from Butler, one on May 24, 2019 at 2:18 p.m. (which he had not seen until he returned to the office on May 28, 2019), and one on May 28, 2019 at 2:12 p.m. Counsel forwarded both messages to the undersigned for whatever action deemed appropriate.

Butler's May 22, 2019 at 1:18 p.m. e-mail stated:

Hi I will be attending the hearing scheduled for May 28, 2019 but I don't know what reciprocal discovery really mean and what I'm supposed to send you if you can help me understand this situation more clearly I'D Greatly appreciate it.

Butler's May 28, 2019 at 2:12 p.m. e-mail stated:

Hello James I'm just emailing you to ask are we still having the phone hearing today there was no time on when we will have it and i really need this job and hope and pray i can speak for myself to regain it[.]

Despite Butler's failure to appear and failure to contact the OAL, the undersigned scheduled a telephone conference for June 12, 2019 to allow appellant an opportunity to provide an explanation for the nonappearance and to reschedule the hearing. However,

Butler could not be reached for the telephone conference. A voice message was left for Butler and e-mails were sent to Butler regarding attempts to reach her for the telephone conference. Nevertheless, Butler never contacted the OAL. A second telephone conference was scheduled for July 11, 2019. However, Butler again could not be reached for the telephone conference, and she has not contacted the OAL.

N.J.A.C. 1:1-14.4(a) provides that if, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall direct the Clerk to return the matter to the transmitting agency for appropriate disposition.

Butler failed to appear at the May 28, 2019, hearing. Butler's May 28, 2019 e-mail to counsel referencing a "phone hearing" and that "there was no time when we will have it" is contradicted by her May 24, 2019 e-mail to counsel stating that she "will be attending the hearing scheduled for May 28, 2019" and by the April 26, 2019 Notice of Hearing which clearly reflects that the hearing date was "May 28, 2019," the time was "9:30 a.m.," and the location was "Office of Administrative Law, 33 Washington St., 7th Floor Newark, NJ 07102." Butler also never contacted the OAL. Nevertheless, Butler was still provided with opportunities to explain the failure to appear and reschedule the hearing, as two telephone conferences were scheduled, but Butler did not participate in either conference, despite the notices, voicemail and e-mails, and she has never contacted the OAL in any manner since her failure to appear.

For the above reasons, I **CONCLUDE** that this matter should be dismissed.

ORDER

It is **ORDERED** that Butler's appeal be dismissed pursuant to N.J.A.C. 1:1-14.4, and I **DIRECT** the Clerk to return the matter to the Civil Service Commission for appropriate disposition.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

July 12, 2019
DATE


KELLY J. KIRK, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

jb