

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 22ND DAY OF SEPTEMBER, 2021

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
44 S. Clinton Ave.
P. O. Box 312
Trenton, New Jersey 08625-0312



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. CSV 16007-19

AGENCY DKT. NO. 2020-1091

**IN THE MATTER OF STEVEN PINKNEY,
CITY OF JERSEY CITY, DEPARTMENT OF
HOUSING,**

Steven Pinkney, petitioner, pro se

**James LaBianca, Esq. Assistant Corporation counsel, appearing on behalf of
respondent**

Record Closed: August 19, 2021

Decided: August 23, 2021

BEFORE Nanci G. Stokes, ALJ:

STATEMENT OF THE CASE

Appellant, Steven Pinkney, appeals from the Final Notice of Disciplinary Action (FNDA) dated October 4, 2019, suspending him, and terminating his employment for violation of regulations and policies regarding insubordination, conduct unbecoming, neglect of duty, or other sufficient cause.

PROCEDURAL HISTORY AND FACTUAL FINDINGS

Appellant, through union counsel, filed an appeal with the Civil Service Commission (Commission) challenging the disciplinary action.

On November 13, 2019, the Commission granted appellant's request for a hearing transmitting this case to the Office of Administrative Law, as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

Appellant declined further union representation in this case and obtained counsel on December 16, 2019. I conducted several telephone conferences, scheduled numerous hearings, and issued a Prehearing Order dated February 19, 2020. Appellant's counsel experienced delays due to COVID-19, and I adjourned the hearings.

On November 20, 2020, the appellant advised that his attorney would no longer represent him and that the OAL should forward all questions or correspondence to him. On December 15, 2020, I conducted a telephone conference with counsel and appellant, where it was clear that disputes arose on strategies to proceed in the case. I directed appellant's counsel to submit a substitution of attorney to indicate that the appellant would now be appearing pro se, which I received on December 16, 2020. Later conferences discussed appellant's desire to obtain a new attorney. Although appellant stated he had a new attorney that would attend a teleconference, he provided no name or other contact information. The OAL received no substitution of attorney or letter of representation.

Although appellant participated in several conference calls, in March 2021 he became non-responsive to emails and telephone calls. By email dated April 12, 2021, the OAL notified appellant and respondent's counsel of a telephone prehearing scheduled for April 26, 2021, at 3:00 p.m. Both parties failed to appear, and I relisted

the conference for April 28, 2021. The OAL notified the parties through email and reminded the appellant that his attorney must submit a letter of representation to participate in the telephone conference. On April 28, 2021, appellant again did not appear, but Jersey City did.

On April 28, 2021, I prepared an Amended Prehearing Order outlining the hearing date of August 9, 19, and 30, 2021. Exhibits were due on July 23, 2021. I also scheduled an additional telephone conference for July 20, 2021. On July 20, 2021, appellant again failed to appear. Appellant supplied no exhibits as instructed, but Jersey City did. Under my instruction, my assistant sent an email stating:

“Dear Parties,

Although Mr. Pinkney did not attend today’s telephone conference, please be reminded that per the Amended Pre-hearing Order dated April 28, 2021, exhibits, exhibit lists and witness lists are due by July 23, 2021, electronically and a hard copy to the OAL with exhibit tabs. Jersey City produced exhibits and a witness list by cover letter February 8, 2021. Thus, Jersey City would only need to present an exhibit list and any supplemental materials it intends to rely upon.

Please note that the telephone conference will not be rescheduled. The hearings in this matter will commence on August 9, 19, and 30, 2021, as per the May 4, 2021 notice.”

(emphasis in original).

Appellant did not submit exhibits as instructed by the Amended Prehearing Order, but Jersey City did. Appellant failed to appear at Zoom hearings scheduled on August 9 and 19, 2021. To date, the OAL received no explanation for nonappearance as required under N.J.A.C. 1:1-14.4. Jersey City was ready to proceed.

Given the circumstances and the failures of appellant, I **FIND** that appellant abandoned his request for a hearing and **CONCLUDE** that this case should be **DISMISSED**.

ORDER

Based upon the foregoing, I **ORDER** that the appeal in this matter be and is hereby **DISMISSED**.

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.

August 23, 2021



DATE

NANCI G. STOKES, ALJ

Date Received at Agency:

August 23, 2021

Date Mailed to Parties:

August 23, 2021

ljb

DOCUMENTS RELIED ON

- Amended Prehearing Order
- May 4, 2021 notice of hearings
- Email chains