

**Inquiries
and
Correspondence**

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

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. CSV 02813-22

AGENCY DKT. NO. 2022-2445

**IN THE MATTER OF IYANAH THERMITUS,
NEWARK PUBLIC SCHOOL DISTRICT,**

Iyanah Thermitus, petitioner, pro se

**Bernard Mercado, Esq., Senior Associate Counsel, appearing on behalf of
respondent**

Record Closed: June 6, 2023

Decided: June 12, 2023

BEFORE Nanci G. Stokes, ALJ:

STATEMENT OF THE CASE

Appellant, Iyanah Thermitus, appeals from the Final Notice of Disciplinary Action (FNDA) dated March 1, 2022, issued by her employer, the Newark Public School District (Newark), terminating her position. The FNDA bases this action on Thermitus' violation of regulations and policies regarding chronic absenteeism, resignation not in good standing, incompetency, neglect of duty, or other sufficient cause.

PROCEDURAL HISTORY AND FACTUAL FINDINGS

Through her union, Thermitus filed an appeal with the Civil Service Commission (Commission) challenging Newark's disciplinary action. Thermitus' union assigned her counsel, Oxfeld Cohen, P.C.

On April 7, 2022, the Commission granted Thermitus' 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.

I conducted several telephone conferences and directed the parties to exchange discovery. Thermitus' attorney had trouble reaching her in October and November 2022. On November 15, 2022, her counsel indicated his desire to withdraw as counsel.

Thermitus responded to that letter, and counsel advised he would rescind his withdrawal and scheduled a call with her for December 7, 2022, which abruptly ended after a few minutes. Counsel has been unable to reach her again despite multiple attempts via phone and email. Further, Thermitus did not respond to counsel's letter advising that he would treat her continued silence as her desire to retain his office no longer. Counsel advised that Thermitus' address and email were the most current he had.

On January 17, 2023, counsel again sought to withdraw, advising this tribunal of his office's unsuccessful efforts to contact Thermitus. Newark had no objection to counsel's withdrawal request. Despite the opportunity, Thermitus did not offer an objection or communicate a response regarding the withdrawal request to this tribunal or to counsel. On January 31, 2023, I accepted the withdrawal.

The OAL also received no substitution of attorney or letter of representation from a different attorney.

I scheduled a conference February 16, 2023, with notice by regular mail and email to Thermitus. The OAL received neither notice returned as undeliverable. Counsel for Newark appeared, but Thermitus did not.

I scheduled a hearing for June 6, 2023, via Zoom, with notice to Thermitus by mail and email. The OAL received neither notice returned as undeliverable. Yet, Thermitus did not appear on Zoom. Newark was ready to proceed.

To date, the OAL received no explanation for nonappearance as required under N.J.A.C. 1:1-14.4.

Given the circumstances and the failures of the appellant, I **FIND** that appellant abandoned her 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.

June 12, 2023



DATE

NANCI G. STOKES, ALJ

Date Received at Agency:

June 12, 2023

Date Mailed to Parties:

June 12, 2023

ljb