

DECISION OF THE CIVIL SERVICE COMMISSION

CSC DKT. NO. 2025-64
OAL DKT. NO. CSV 10022-24

The appeal of Marc Rispoli, Police Officer, Bergenfield, Police Department, 10 working day suspension, on charges, was before Administrative Law Judge Andrea Perry Villani (ALJ), who rendered her initial decision on October 31, 2024. Exceptions were filed on behalf of the appellant and a reply was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of November 27, 2024, did not accept the recommendation to dismiss the appeal for failure to appear. Rather, the Commission remanded the matter to the Office of Administrative Law (OAL).

The record shows that neither the appellant nor his attorney phoned in for scheduled prehearing conferences on four occasions. Additionally, the ALJ indicated that she did not receive any explanation from the attorney regarding the most recent failure to appear. As such, she recommended dismissing the appellant's appeal.

In the appellant's exceptions, the appellant's attorney indicates that the first three failures to phone in were based on a series of miscommunications between the OAL and his staff. He indicates the fourth occurrence was based on the fact that he had a family medical emergency. The appointing authority's reply argues that the ALJ's determination was correct as neither the appellant nor the attorney appeared on four occasions.

Upon its *de novo* review, while the Commission is concerned with the somewhat self-serving nature of the explanations provided, it is loathe to dismiss matters procedurally, especially where the record provides that such dismissal is

based on an appellant's representative's action or inaction. Moreover, the attorney in question in this matter is well-known to the Commission and has not shown a penchant for previous similar actions. As such, in this particular matter, the Commission will provide the appellant and his attorney the benefit of the doubt and remand the matter to the OAL for further hearing proceedings. However, the appellant and his attorney are warned that any further failure to appear will justifiably provide the ALJ the basis to again dismiss the appellant's appeal.

ORDER

The Civil Service Commission remands the matter of to the Office of Administrative Law for further proceedings.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 27TH DAY OF NOVEMBER, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
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

OAL DKT. NO. CSV 10022-24

AGENCY DKT. NO. N/A

2025-64

**IN THE MATTER OF MARC RISPOLI,
BOROUGH OF BERGENFIELD POLICE
DEPARTMENT.**

Stuart Alterman, Esq., for appellant (Alterman & Associates, attorneys)

Sabrina Santamaria, Esq., for respondent (Trenk, Isabel, Siddiq & Shahdanian,
attorneys)

Record Closed: October 31, 2024

Decided: October 31, 2024

BEFORE ANDREA PERRY VILLANI, ALJ:

STATEMENT OF THE CASE

Appellant, Marc Rispoli, and his counsel failed to appear for a prehearing conference four times. Counsel acknowledged receipt of the fourth and final notice, but he still did not appear, and he did not provide an explanation or establish good cause. Must I reschedule the matter? No. Under N.J.A.C. 1:1-14.4(c), the judge may refuse to reschedule a matter when there is no good cause for a party's failure to appear.

PROCEDURAL HISTORY

On September 25, 2025, respondent, Borough of Bergenfield, served appellant, Marc Rispoli, with a Preliminary Notice of Disciplinary Action bringing the following charges: Violation of Bergenfield Police Department (BPD) Policy and Procedure OT 413; violation of BPD Policy and Procedure OD 409; violation of BPD Rules and Regulations 2.1.3(2), 2.1.3(8), 3.1.8, 3.7.4, and 3.1.11. The charges stem from Rispoli allegedly failing to wear his body camera during two separate calls and failing to document one caller's complaint, instead telling her to "email the chief."

On June 24, 2024, Bergenfield served Rispoli with a Final Notice of Disciplinary Action sustaining all charges and imposing a ten-day suspension.

On June 26, 2024, Rispoli filed an appeal with the Civil Service Commission.

On July 19, 2024, the Civil Service Commission transmitted the case to the Office of Administrative Law (OAL) 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 -23.

On August 30, 2024, September 6, 2024, September 24, 2024, and October 24, 2024, I attempted to conduct prehearing telephone conferences. Counsel for Bergenfield appeared, but counsel for Rispoli failed to appear all four times. As a result, I have been unable to conduct any proceedings in this matter to date.

FINDINGS OF FACT

Based on the procedural history of this matter, I **FIND** the following as **FACT**:

On August 30, 2024, I conducted the first prehearing telephone conference. (C-1.) Counsel for Bergenfield appeared, but counsel for Rispoli did not appear. I rescheduled the prehearing telephone conference two more times to September 6, 2024 and September 24, 2024. (C-2, C-3.) Both times, Bergenfield's counsel appeared, but no one appeared on Rispoli's behalf. My assistant emailed Rispoli's counsel, noting his

failure to appear, and requested he confirm his participation in the next call. (C-6.) He did not respond.

On September 25, 2024, I wrote a letter to both attorneys and Rispoli with a notice for what would be the final prehearing conference on October 24, 2024. (C-4.) My assistant sent Rispoli's letter and notice via regular mail to ensure he was aware and able to participate in the conference. The letter stated, "If no one calls into the conference on October 24th for Mr. Rispoli, I will assume he has abandoned his appeal..."

Later that day, a legal assistant from Rispoli's attorney's office acknowledged receipt of my letter. (C-6.) She asked to reschedule the October 24th conference because the attorney would be "out of state" from October 19th to October 26th. She did not say the attorney was on vacation or otherwise explain why he could not call in for a brief phone conference. Thus, I declined to reschedule the conference a fourth time. My assistant communicated this to the attorney's assistant the same day. (C-6.)

One week later on October 2, 2024, Rispoli's attorney emailed a letter specifically acknowledging receipt of the October 24, 2024 prehearing notice: "I do have the within notice because it was in my mail folder." (C-7.) The letter demonstrates that he did indeed receive the email and notice, as well as the previous emails and notices. The letter did *not* state that he was unable to call into the October 24th conference. Yet, on October 24, 2024, Rispoli's attorney failed to call in for the fourth time, and Bergenfield's attorney moved to dismiss Rispoli's appeal. To date, Rispoli's attorney has not given an explanation, attempted to establish good cause for missing the fourth conference, or sought to reschedule the conference. He has not reached out at all.

CONCLUSIONS OF LAW

Under N.J.A.C. 1:1-14.4(a), if a party or his representative fails to appear at any proceeding scheduled by the judge after appropriate notice, the judge must hold the matter for one day before taking action. Then, under N.J.A.C. 1:1-14.4(c), if the judge receives an explanation but concludes there was no good cause for the nonappearance, he may refuse to reschedule the matter. Further, N.J.A.C. 1:1-14.14 holds that the judge

may dismiss an application for unreasonable failure to comply with any requirement of this chapter.

In this case, I made four attempts to conduct the prehearing conference. Rispoli never appeared, and his attorney never appeared. I gave appropriate notice to both Rispoli and his attorney. The final notice was sent via email and regular mail, and counsel acknowledged receipt. To date, counsel has provided no explanation for missing the fourth and final conference or followed up in any regard. Therefore, I **CONCLUDE** that Rispoli's failure to appear was unreasonable, and his appeal should be dismissed.

ORDER

I **ORDER** that Rispoli's appeal be and is hereby **DISMISSED**.

I **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 is authorized by law to make a final decision in this case. 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 under N.J.S.A. 40A:14-204.

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.

October 31, 2024



DATE

ANDREA PERRY VILLANI, ALJ

Date Received at Agency:

October 31, 2024

Date Mailed to Parties:
sej

October 31, 2024

APPENDIX

Documents Relied On:

- Exhibit C-1 Notice of Telephone Prehearing Conference on 8/30/24
- Exhibit C-2 Notice of Telephone Prehearing Conference on 9/6/24
- Exhibit C-3 Notice of Telephone Prehearing Conference on 9/24/24
- Exhibit C-4 ALJ Letter to Counsel & Appellant dated 9/25/24
- Exhibit C-5 Notice of Telephone Prehearing Conference on 10/24/24
- Exhibit C-6 Emails to/from OAL & Counsel
- Exhibit C-7 Letter from Counsel to ALJ dated 10/2/24