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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. CSV 14762-24

AGENCY DKT. NO. 2025-699

**IN THE MATTER OF DAVID TISHLER,
BURLINGTON CITY, DEPARTMENT
OF HOUSING AND COMMUNITY
DEVELOPMENT.**

David Tishler, appellant, pro se

Costadinos J. Georgiou, Esq., for respondent (Lenox Law Firm, attorneys)

Record Closed: January 28, 2026

Decided: February 6, 2026

BEFORE **NICOLE T. MINUTOLI, ALJ**:

STATEMENT OF THE CASE

The appellant failed to completely respond to the respondent's discovery requests served on May 22, 2025, and re-served on June 30, 2025. To date, the appellant has still not provided complete responses to discovery. Should this case be dismissed? Yes. Under N.J.A.C. 1:1-10.5, an administrative law judge may impose sanctions for failure to comply with discovery, including dismissal under N.J.A.C. 1:1-14.14(a).

PROCEDURAL HISTORY AND FINDINGS OF FACT

On or about July 19, 2024, the respondent served the appellant with a Preliminary Notice of Disciplinary Action (PNDA), charging him with violations of N.J.A.C. 4A:2-2.3(a)(2). Following a departmental hearing on or about August 12, 2024,¹ respondent issued a Final Notice of Disciplinary Action (FNDA), on September 9, 2024, removing him from his position as a code enforcement officer for the Burlington City Department of Housing and Community Development, effective September 9, 2024. On or about September 13, 2024, the appellant filed an appeal with the Civil Service Commission (CSC). On October 4, 2024, the CSC transmitted the matter to the Office of Administrative Law, where it was filed for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

On January 27, 2025, an initial prehearing conference was held, and I set the discovery end for April 28, 2025. At the next status conference call on April 28, 2025, we discussed a discovery end date, and by letter order dated May 1, 2025, I confirmed that discovery was to be completed by June 30, 2025.

On May 22, 2025, the respondent served its First Set of Interrogatories and First Request for Production of Documents on the appellant. Appellant's answers to respondent's discovery were due within thirty days, on June 21, 2025. On June 26, 2025, after receiving no response from the appellant, I emailed the appellant, advising that the thirty-day period had expired and that the appellant had an additional ten days to respond.

At the status conference call on June 30, 2025, the appellant claimed he had not received the respondent's discovery requests. While on the conference call, the respondent emailed the appellant copies of the discovery requests. During the call, I ordered the appellant to serve complete responses to the respondent by July 7, 2025, and confirmed the order by letter.

¹ This tribunal is unable to clearly read the FNDA provided with this appeal and believes the departmental hearing was conducted on or about August 12, 2024.

On July 7, 2025, the appellant served an uncertified two-page response to discovery. The appellant did not provide responses to the Request for Production of Documents. On July 10, 2025, the respondent contacted the appellant, advising that his response was uncertified and substantially deficient and that he provided no response to the Request for Production of Documents.

On or about July 17, 2025, the appellant contacted the respondent to advise that his father's health was declining. Respondent provided the appellant an additional seven days to respond.

The appellant failed to appear at the September 3, 2025, status conference call. I requested that the appellant explain his absence and rescheduled the status conference call for October 21, 2025. On October 20, 2025, the appellant emailed my office apologizing for missing the September 3, 2025, status conference call and requesting an adjournment of the October 21, 2025, status conference call due to his father's hospitalization. I granted the appellant's adjournment request and rescheduled the status conference call to January 21, 2026.

On November 26, 2025, the respondent filed a motion to dismiss the appellant's appeal for failing to provide discovery under N.J.A.C. 1:1-14.14.

During the January 21, 2026, status conference call, I gave appellant an additional seven days to file his response to the respondent's motion to dismiss by January 28, 2026, following up with a letter order.

To date, the appellant has neither answered any discovery nor objected to any. Appellant has not even filed any opposition to the motion.

DISCUSSION AND CONCLUSIONS OF LAW

Under N.J.A.C. 1:1-10.5, an administrative law judge may impose sanctions for failure to comply with discovery. The rule references N.J.A.C. 1:1-14.14. Under N.J.A.C. 1:1-14.14(a), an administrative law judge may dismiss or grant a motion or application,

suppress a defense or claim, exclude evidence, order costs or reasonable expenses, or take any other appropriate case-related action.

Given the appellant's repeated failure to answer discovery in this case—and the fact that it is now over six months overdue—I **CONCLUDE** that the appropriate case-related action in this case is the requested action—dismissal—and grant the respondent's motion to dismiss this case.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that this case be **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.

February 6, 2026

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

February 6, 2026

Date Mailed to Parties:

February 6, 2026

NTM/tc