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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO.: CSV 05142-23

AGENCY NO.: CSC 2023-2641

S [REDACTED] P [REDACTED],
Petitioner,

v.

**PARSIPPANY-TROY HILLS TOWNSHIP,
DEPARTMENT OF MUNICIPAL UTILITIES,**
Respondent.

S [REDACTED] P [REDACTED], petitioner, pro se

Madeline P. Hicks, Esq. for respondent (Antonelli Kantor River, attorneys)

Record Closed: June 18, 2025

Decided: March 12, 2026

BEFORE **WILLIAM COURTNEY, ALJ:**

PROCEDURAL HISTORY

This case involves the termination of a municipal employee after a Final Notice of Disciplinary Action ("FNDA") entered on April 17, 2023. The petitioner filed a timely notice of appeal and this matter was transferred to the Office of Administrative Law ("OAL") by the Civil Service Commission – Division of Appeals and Regulatory Affairs on June 12, 2023. The petitioner failed to appear at several scheduled conferences in this matter and

also failed to appear at the hearing scheduled for May 31, 2024. Respondent has requested this tribunal to dismiss petitioner's case in accordance with N.J.A.C. 1:1-14.4 for failing to appear at the hearing, without good cause.

FACTUAL BACKGROUND

Petitioner S ■■■ P ■■ was employed as a Supervising Sewer Plant Repairer for the Township of Parsippany-Troy Hills. Mr. P ■■ has been charged by his employer with certain violations under the Civil Service Rules of the State of New Jersey and violation of policies of the Township of Parsippany-Troy Hills. Specifically, the charges against Mr. P ■■ per Civil Service, N.J.A.C. 4A:2-2.3(a) are as follows:

1. Incompetency, inefficiency, kor failure to perform duties.
2. Conduct unbecoming a public employee.
3. Inability to perform duties.
4. Neglect of duty.
5. Discrimination affects equal employment opportunity.
6. Other sufficient cause; and
7. The Township of Parsippany-Troy Hills Prohibited Discrimination and Harassment Policy.

After the issuance of the March 10, 2023, Findings Recommendations of Hearing Officer Frank T. Pinto, a Final Notice of Disciplinary Action("FNDA") was issued on April 17, 2023, terminating petitioner's employment effective April 1, 2023.

After the matter was referred to the OAL, the parties were provided written notice of a prehearing conference that was to take place on June 27, 2023. At the time of the scheduled conference the petitioner failed to appear. After discussing proposed discovery deadlines and hearing dates, I informed the respondent that I would stay on the line and call her back in the event the petitioner called into the conference at a later point in time. After waiting an hour with no contact from the petitioner, I terminated the conference call. I

then drafted a prehearing order containing discovery deadlines and hearing dates agreed upon by respondent's counsel. I also directed respondent's counsel to contact the petitioner and verbally relay the discovery deadlines and hearing dates.

Petitioner received copies of the prehearing order via regular mail only because neither this tribunal nor the respondent had a valid email address for him at the time. On August 18, 2023, I provided written notice to the parties that a status conference was scheduled for August 25, 2023. Once again, the respondent appeared for the scheduled conference and petitioner did not. In addition to the prehearing order setting a hearing date of October 23, 2023, a separate Notice of hearing was mailed to the parties. Just prior to the hearing on October 23, I received a request from respondent's counsel to adjourn the hearing date due to a medical emergency and I adjourned the hearing date. A new hearing date was then noticed for November 17, 2023 and on November 10, 2023 respondent's counsel again requested and adjournment due to a calendar conflict. Counsel for respondent reached out to petitioner to obtain his consent for the adjournment but the petitioner did not return counsel's call. When the court reached out to petitioner¹ to obtain his consent to the adjournment, there was no response. Having no objection from petitioner, the court granted respondent's request to adjourn the hearing date.²

At or around the same time respondent's counsel requested the adjournment of the November 17th hearing date, they informed the court that petitioner had communicated to the Township that he would be interested in a settlement conference and suggested that a settlement conference with the court might be appropriate prior to rescheduling the hearing date.

After agreeing on a hearing date of May 17, 2024, the court provided the parties with a written hearing notice for May 17th that contained the following language printed in

¹ At his point in time we had received and email address for petitioner of [REDACTED].

² On November 4, 2023 we received and email from petitioner confirming his email address of [REDACTED] and his current address of [REDACTED]. We therefore provided petitioner with all future notices visa email and regular mail at the addresses he provided.

large type and in bold:

If you do not attend this hearing, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

On May 15, two days before the hearing, the court received an email from petitioner requesting an adjournment of the hearing because he was unable to contact his union representative and that his car broke down the day before and that he had no way to get to court. Respondent's counsel consented to the requested adjournment and both parties agreed to a rescheduled hearing date of May 31, 2024. Both parties were then sent written notice of the new hearing date.

On May 31, 2024 at 9:00 am the respondent was present at the courtroom and provided the court with pretrial submissions in accordance with the Prehearing Order. The respondent did not appear and he did not contact the court to advise the court why he would not be appearing. The court attempted to contact petitioner at the email address he had previously provided and there was no response. Respondent orally requested that the petitioner's appeal be dismissed for his failure to appear at the hearing and followed that oral request with a written request on June 10, 2024.

On June 21, 2024, petitioner replied to respondent's June 10 written request to dismiss stating the following:

I am very sorry for the delay in the response. My phone was broken and that is the only access I have to my email at this time. I have been trying to reach out to my union rep and have still been unsuccessful. At this time I am asking for a lengthy continuance. I believe my best option is to obtain a private attorney to represent me in these matters.

At no time since his nonappearance at the hearing on May 31, 2024 did the petitioner

contact this court and provide an explanation for his failure to appear.

At no time since his reply to respondent's June 10, 2024 letter requesting dismissal of his appeal did petitioner, his union representatives or privately retained counsel communicate with this court.

LEGAL ANALYSIS

N.J.A.C. 1:1-14.4 sets for the appropriate sanction for a litigant's failure to appear at any proceeding scheduled by the Clerk or an Administrative Law Judge. The rule states that "[i]f the judge does not receive an explanation for the nonappearance within one day, the judge shall, unless proceeding pursuant to (d) below, direct the Clerk to return the matter to the transmitting agency for appropriate disposition." (citation omitted).

In the case at bar, petitioner did provide a letter to the respondent 21-days after failing to appear but that letter appears to be apologizing for his delay in responding to the motion to dismiss and does not provide an explanation for his failure to appear at the May 31, 2024 hearing. It was the petitioner who requested the adjournment of the May 17, 2024 hearing to May 31, 2024 because he could not get in touch with his union representative and because his car had broken down. Accordingly, he knew how to communicate with the court prior to the hearing date if there was a problem with his ability to attend. He simply did nothing and for a third time in this matter did not show up for a scheduled proceeding. Petitioner, without any explanation, failed to appear at the initial prehearing conference on June 27, 2023, the scheduled status conference on August 24, 2023 or the hearing on May 31, 2024.

Even if his June 21, 2024 correspondence was timely, and it was not, I **FIND** that the excuses he provided did not constitute good cause for his failure to appear at the May 31, 2024 hearing. See N.J.A.C. 1:1-14.4 (c)1. Petitioner's inability to contact his union representative has nothing to do with his failure to advise the court or even opposing counsel that he would not be attending the hearing. He also provided no explanation as to why his union representative was necessary in proceeding with the due process petition he himself filed. I also **FIND** that his belief, 21 days past his hearing date, that his best option

is to retain an attorney to represent him does not constitute good cause. Petitioner had 10 months to not only communicate with his union but to retain private counsel, and he chose not to do so. Moreover, the June 29, 2023 Prehearing Order specifically states:

No change in designated trial counsel shall be made without leave of the administrative law judge if such change will interfere with the date for the hearing.

[June 29 Prehearing Order at ¶ 2]

At no time prior to the hearing date did petitioner advise the court that he wanted to retain counsel. Even if he had expressed his desire to retain counsel prior to the hearing, I would not have delayed this hearing unless I received assurances that counsel had already been retained (or had already made assurances he would represent the petitioner) and that his representation would not delay the hearing.

Lastly, a year has passed since petitioner made this observation that his "best option" would be to hire a private attorney to represent him, and no attorney has made an appearance and there has been no communication from the petitioner to this tribunal.

CONCLUSION

For all of the reasons set forth above, I **CONCLUDE** that this matter should be dismissed in accordance with N.J.A.C. 1:1-14.4 for failing to appear at the hearing, without good cause.

ORDER

IT IS on this 12th day of March 2026 **ORDERED** that:

1. Petitioner's appeal of April 17, 2023 FNDA is **DISMISSED** and
2. This Dismissal resolves all outstanding issues in this matter.

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.



March 12, 2026
DATE

WILLIAM J. COURTNEY, ALJ

Date Received at Agency:

March 12, 2026

Date Mailed to Parties:

March 12, 2026

db

List of Exhibits

For Petitioner

None

For Respondent

Respondent's May 31, 2024, prepared Hearing Exhibits