

B-4



STATE OF NEW JERSEY

In the Matter of
Melissa Edwards
Judiciary, Essex Vicinage

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Administrative Appeal

CSC Docket No. 2014-2344

ISSUED: September 3, 2014 (PM)

Melissa Edwards, a Senior Probation Officer, with the Judiciary, Essex Vicinage, requests that the Civil Service Commission (Commission) reinstate her appeal of her 10 day suspension, which was dismissed based on her failure to appear at her settlement conference.

By way of background, the appellant was suspended for 10 days, following sustained charges of incompetency, inefficiency or failure to perform duties, insubordination, conduct unbecoming a public employee, neglect of duty and other sufficient cause. The appellant appealed this action to the Commission, which transmitted the matter to the Office of Administrative Law (OAL). The OAL scheduled the matter for a settlement conference on May 13, 2014. An appointing authority representative appeared at OAL and was prepared to proceed with the scheduled conference. The appellant did not appear at the appointed time and based on her absence, the OAL issued a "Failure to Appear" notice which indicated that the appellant failed to appear at the scheduled proceeding. On May 20, 2014, this matter was returned to the Commission for a final decision, with a notice giving the appellant 13 days to present any excuse for failure to appear to this agency.

In support of her June 5, 2014, request to reinstate her appeal, the appellant states that the Failure to Appear notice was the first notice she received confirming her scheduled hearing date on May 13, 2014. She further indicates that she failed to appear because she was not aware of the scheduled hearing. As such, she requests that the matter be rescheduled.

In response, the appointing authority, represented by Thomas Russo, Esq., Staff Attorney, states that the appointing authority takes no position regarding the appellant's request to have her appeal re-listed for a settlement conference before the OAL.

CONCLUSION

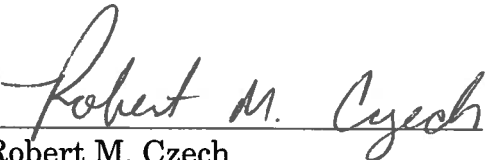
In this matter, the appellant has not sustained her burden of proof. The record indicates that a settlement conference was scheduled for May 13, 2014. A review of the service lists indicate that the notices were mailed to the appellant's current address on file and such notices were not returned to the OAL or deemed undeliverable. The appellant provides no evidence to refute this finding. Additionally, while the appellant argues that the Failure to Appear notice was the first notice she received confirming her scheduled hearing date on May 13, 2014, this is not a compelling reason to excuse her absence when the prior notices were mailed to her current address and were not returned as undeliverable. As such, it is an appellant's responsibility to be available for a scheduled OAL proceeding. Accordingly, since the appellant has not presented the Commission with any substantive evidence to excuse her absence, her appeal is dismissed based on her failure to appear at the May 13, 2014 scheduled OAL settlement conference.

ORDER

Therefore, it is ordered that Melissa Edwards' request to reinstate her appeal be denied and her appeal be dismissed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF SEPTEMBER, 2014


Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Melissa Edwards
Thomas Russo, Esq.
Joseph Gambino