



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ray Rawls
Department of Children & Families

CSC Docket No. 2014-1384

Administrative Appeal

ISSUED: July 30, 2014 (PM)

Ray Rawls, an Assistant Family Service Worker 2, with the Department of Children and Families, requests that the Civil Service Commission (Commission) reinstate his appeal of his 10 day suspension, which was dismissed based on his failure to appear at his settlement conference.

By way of background, the appellant was suspended effective November 18, 2013, following sustained charges of breach of confidentiality, conduct unbecoming a public employee, failure to perform duties, neglect of duty, misuse of public property, 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 April 29, 2014. An appointing authority representative and the appellant's union representative appeared at OAL and were prepared to proceed with the scheduled conference. The appellant did not appear at the appointed time and based on his absence, the OAL issued a "Failure to Appear" notice which indicated that the appellant failed to appear at the scheduled proceeding. On May 1, 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 his May 9, 2014, request to reinstate his appeal, the appellant states that he mistakenly confused the settlement conference date and time with that of his work assignments. He states that he was at work during the scheduled conference handling a priority court case. The appellant further submits

documentation in the form of his ECATS timesheet crediting him for his attendance at work on April 29, 2014. As such, he requests that the matter be rescheduled.

In response, the appointing authority, represented by Ila Bhatnagar, Director, Office of Employee Relations, states that the appellant could have filed an application for adjournment in accordance with *N.J.A.C.* 1:1-9.6 if his work assignment conflicted with his scheduled hearing. However, the appellant did not seek an adjournment. Further, his presence at work indicates that he was available to attend the hearing and he fails to submit any evidence of a compelling scheduling conflict, serious illness or any good cause for an adjournment. As such, the appointing authority requests that this matter not be rescheduled for a hearing.

CONCLUSION

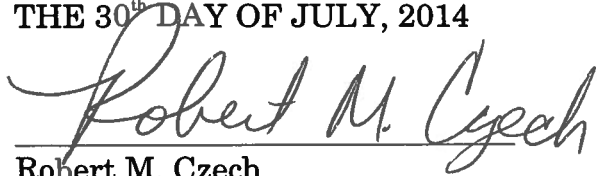
In this matter, the appellant has not sustained his burden of proof. The record indicates that a settlement conference was scheduled for April 29, 2014. Although the appellant provided documentation in the form of his ECATS timesheet that he was at work on the same day as his settlement conference, he provides no evidence that his work duties would have prevented him from requesting time off to attend the scheduled conference. Further, there is no evidence that the appellant attempted to make arrangements prior to the settlement conference to contact the OAL or his union representative to advise them that he would be unable to attend the settlement conference or to request an adjournment. Additionally, while the appellant argues that he mistakenly confused the scheduled conference date and time, this is not a compelling reason to excuse his absence as 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 his absence, his appeal is dismissed based on his failure to appear at the April 29, 2014 scheduled OAL settlement conference.

ORDER

Therefore, it is ordered that Ray Rawls's request to reinstate his appeal be denied and his 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 30th DAY OF JULY, 2014



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