

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Tonya Johnson,)	
)	
Complainant,)	PERB Case No. 03-U-21
)	
v.)	Slip Opinion No. 762
)	
American Federation of State, County and)	
Municipal Employees, Local 2091,)	
)	
Respondent.)	
)	

DECISION AND ORDER

I. Statement of the Case:

Tonya Johnson ("Complainant"), filed an Unfair Labor Practice Complaint against the American Federation of State, County and Municipal Employees, Local 2091. The case was assigned to a Hearing Examiner and a hearing was scheduled for April 8, 2004. However, the Complainant failed to appear. As a result, the Hearing Examiner issued an "Order to Show Cause." In his "Order to Show Cause," the Hearing Examiner directed "that the Complainant respond within 15 days with good cause for continuing this case to a later date." The Complainant failed to respond to the Order to Show Cause. *In view of the above, the Hearing Examiner is recommending that the Complainant be dismissed in its entirety for want of prosecution. The Complainant did not file any exceptions to the R&R.*

The Hearing Examiner's Report is before the Board for disposition.

II. Discussion

The Complainant filed an Unfair Labor Practice Complaint, in the above-referenced case. The Complainant alleges that the American Federation of State, County and Municipal Employees, Local 2091 violated D.C. Code § 1-617.04 (a) and (b) (2001 ed.) by failing to represent her after she was terminated by the District of Columbia Water and Sewer Authority. (Compl. at p. 2). In a notice

dated March 19, 2004, the parties were informed that a hearing was scheduled for April 8, 2004. The hearing was to begin at 10:00 a.m. The Respondent's representative was present at the hearing. However, the Complainant failed to appear. As a result, at 10:25 a.m., the Board's staff called the Complainant's home in order to determine whether the Complainant was planning to attend the hearing. The Complainant did not answer her telephone. Therefore, at 11:00 a.m., the Hearing Examiner decided to open the record. The Respondent's representative "moved that the Complaint be dismissed on grounds that the Complainant failed to appear." (See Order to Show Cause at p.1). The Hearing Examiner did not grant the Respondent's motion. Instead, on April 8, 2004, the Hearing Examiner issued an "Order to Show Cause." In his "Order to Show Cause," the Hearing Examiner directed "that the Complainant respond within 15 days with good cause for continuing this case to a later date." (R&R at p. 1). As of May 11, 2004, the Complainant had not filed a response to the Order to Show Cause. As a result, the Hearing Examiner recommended that the Complaint be dismissed in its entirety for want of prosecution.

Pursuant to D.C. Code § 1-605.02 (3) (2001 ed.) and Board Rule 520.4, the Board has reviewed the findings, conclusions and recommendations of the Hearing Examiner and find them to be reasonable, persuasive and supported by the record. Specifically, we find that the Hearing Examiner's recommendation that the complaint be dismissed is supported by the record. For example, we note that the Hearing Examiner made his recommendation to dismiss, approximately two months after the Complainant failed to appear at a hearing and approximately one month after the Complainant failed to respond to the "Order to Show Cause." In addition, on May 12, 2004 the Complainant was provided with a copy of the Hearing Examiner's report and informed that she could file exceptions to the Hearing Examiner's report. The Complainant's exceptions were due on June 1, 2004. However, the Complainant did not submit any exceptions to the Hearing Examiner's report. In view of the above, we adopt the hearing Examiner's recommendation and dismiss the complaint with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Hearing Examiner's recommendation is adopted and the complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC RELATIONS BOARD
Washington, D.C.

July 27, 2004

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No.03-U-21 was transmitted via Fax and U.S. Mail to the following parties on this 27th day on July 2004.

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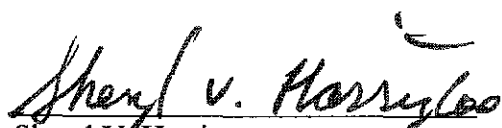
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