

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:)	
)	
Calvert Wilson,)	
)	
Complainant,)	PERB Case Nos. 07-U-36
)	and 07-U-39
)	
v.)	Opinion No. 944
)	
District of Columbia Water and)	
Sewer Authority,)	
)	
Respondent.)	

DECISION AND ORDER

Calvert Wilson ("Complainant") filed two unfair labor practice complaints against the District of Columbia Water and Sewer Authority ("WASA"). The Complainant alleged that WASA colluded with the President of the American Federation of Government Employees, Local 2553 "to bring 'false charges and allegations' against him and 'restrained, interfered, harass[ed], intimidated, discriminated and retaliated' against him in violation of the Comprehensive Merit Personnel Act, D.C. Code § 1-617.04 (a) (1), (2), (3) and (4)." (Hearing Examiner's Report and Recommendation at p. 1). WASA denied the allegations. The two cases were consolidated and referred to a Hearing Examiner.

The hearing in these matters was scheduled to begin at 10:00 a.m. on November 28, 2007 at the Board's office. Pursuant to Board Rule 550.4 the parties were provided with a timely notice of hearing. Neither party attended the proceeding and neither party contacted the Board's Executive Director to request an extension or delay. At approximately 10:40 a.m., Hearing Examiner Lois Hochhauser noted the absence of the parties on the record. The Hearing Examiner waited until approximately 11:15 a.m. before leaving the Board's office.

On November 30, 2007 the Hearing Examiner issued an order directing the "Complainant. . . to show cause why the Hearing Examiner should not recommend that the Board or [the] Executive Director dismiss these matters with prejudice based on Complainant's

failure to prosecute.”¹ (Hearing Examiner’s Order at p. 1). The Hearing Examiner noted that if the Complainant did not respond to the December 3rd “Order to Show Cause” “the Hearing Examiner will assume that [the Complainant] does not object to the dismissal, and will recommend such action to the Board or Executive Director without further notice.” (Hearing Examiner’s Order at p. 1). Complainant’s response to the “Order to Show Cause” was due on December 21, 2007. The Complainant did not respond to the Hearing Examiner’s “Order to Show Cause.”

On May 8, 2008, the Hearing Examiner issued a Report and Recommendation in which she recommended that the two complaints be dismissed with prejudice. In support of this recommendation, the Hearing Examiner noted the following:

Complainant failed to prosecute these matters by failing to attend the proceeding and by failing to respond to the Order despite being notified that his failure would result in the recommendation that the matter be dismissed pursuant to Board Rule 550.19.

Under these circumstances, and for the reasons discussed, [I] conclude that these matters should be dismissed with prejudice consistent with PERB Rule 550.19.²

(Hearing Examiner’s Report and Recommendation at p. 3).

On May 13, 2008, a copy of the Hearing Examiner’s Report and Recommendation was transmitted to the parties by first class mail. Pursuant to Board Rule 556.3 the parties could file exceptions by June 2, 2008. Neither party filed exceptions regarding the Hearing Examiner’s recommendation to dismiss the two complaints with prejudice.

Pursuant to D.C. Code § 1-605.02(3) and Board Rule 520.14, 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. Therefore, the Board adopts the Hearing Examiner’s recommendation that the two complaints be dismissed with prejudice.

¹On December 3, 2007 the Hearing Examiner’s Order was transmitted to the parties by first-class mail.

²Board Rule 550.19 provides that “[i]f a party fails to prosecute a cause of action, the Hearing Examiner may recommend that the Board or Executive Director dismiss the action with prejudice or rule against the defaulting party.”

ORDER

IT IS HEREBY ORDERED THAT:

1. The unfair labor practice complaints in PERB Case Nos. 07-U-36 and 07-U-39 are dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

August 3, 2009

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 07-U-36 and 07-U-39 was transmitted via Fax and U.S. Mail to the following parties on this the 3rd day of August 2009.

Calvert Wilson
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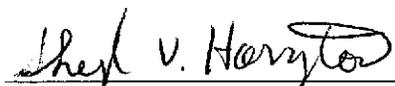
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