


Appellant has called to the Board's attention a prior MSPB case, MSPB Case No. 10-19 (2010), in which Appellant (under a different name) was terminated due to excessive medical absences after exhausting all paid leave. Appellant Response to Show Cause Order, July 10, 2017. In that case, after the MSPB found that the County agency involved had failed to give Appellant proper notice of her rights it ordered her reinstated with back pay. Appellant argues that in this appeal the Board should grant her motion to dismiss the notice of termination and rescind the termination. She further argues that the County should not be allowed a "do over." However, unlike MSPB Case No. 10-19, in this case the County recognized its failure to provide proper notice and reinstated Appellant with back pay without waiting to be ordered to do so by the Board. This appeal is moot because the action being appealed has been completely rescinded.¹



Pursuant to Montgomery County Personnel Regulations (MCPR), § 35-7(d), the Board may dismiss an appeal if the appeal becomes moot. Under longstanding Board precedent, an appeal must be dismissed as moot where an agency completely rescinds the action appealed. *See, e.g.*, MSPB Case No. 17-03 (2016); MSPB Case No. 14-45 (2014); MSPB Case No. 14-11 (2014); MSPB Case No. 12-06 (2006); MSPB Case No. 10-12 (2010). The County has demonstrated to the Board that it has fully rescinded the action appealed and made Appellant whole.

ORDER

Based on the above, the Board hereby dismisses Appellant's appeal based on mootness.

For the Board
July 26, 2017


Charlotte Crutchfield
Chair

¹ Appellant claims that she has not been made whole because at the time of the flawed notice of intent to terminate she still had 30 days left on a 90-day period in which she had disability priority rights to vacant County jobs. Appellant Response to Show Cause Order, p. 2. While it is correct that the notice was provided with 30 days remaining, Appellant ignores the fact that the notice clearly indicated, in bold lettering, that she had a month left to secure another position before the termination would take effect. Memorandum from  to Appellant, March 24, 2017, ¶ 2. Moreover, the County submitted an affidavit certifying that Appellant had a 90-day period of priority rights. Affidavit of  July 18, 2017, ¶ 7.