

**BEFORE THE
MERIT SYSTEM PROTECTION BOARD
FOR
MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF

██████████,

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NO. 18-21

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ORDER OF DISMISSAL

On February 7, 2018, Appellant filed this appeal with the Merit System Protection Board (MSPB or Board). Appellant is a retired firefighter challenging a reduction in her service connected disability retirement benefits. The Board concluded that the processing of Appellant’s appeal would benefit from adherence to the steps required by § 33-56 of the County Code and a written decision by the Chief Administrative Officer (CAO). On June 7, 2018, the Board ordered that the appeal be remanded to the CAO and held in abeyance until the CAO had issued a written decision.

On August 2, 2018, the CAO issued a letter granting Appellant what appears to be full relief. The Board’s June 7 Order provided that, within 15 days after receiving the CAO’s response, Appellant could either submit a written request that the Board resume processing her appeal or, if satisfied with the CAO’s response, withdraw her appeal. When Appellant failed to advise the Board of which course of action she wished to pursue the Board issued a Show Cause Order dated August 21, 2018, requiring Appellant to show good cause as to why the Board should not dismiss her appeal as moot. On August 30, 2018, Appellant filed a request to withdraw her appeal, stating that the County has agreed to retroactively pay Appellant for the retirement benefits which had been reduced, as well as prospectively pay the appropriate amount of retirement benefits.

Pursuant to Montgomery County Personnel Regulations, § 35-7(d), the Board may dismiss an appeal if the appeal becomes moot. The Board has long taken the position that when the County provides the relief sought by the Appellant, the appeal should be dismissed as moot. MSPB Case

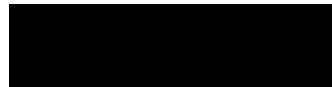
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Nos. 16-14 & 16-16 (2016); MSPB Case No. 89-52 (1990); MSPB Case No. 89-15 (1989); MSPB 89-45 (1989).

Accordingly, the Board concludes that the appeal in Case No. 18-21 is moot, and hereby **ORDERS**, that it be **DISMISSED**, with prejudice.

Pursuant to Montgomery County Code, § 33-15, *Judicial review and enforcement*, and MCPR, § 35-18, *Appeals to court of MSPB decisions*, if any party disagrees with the decision of the Merit System Protection Board they may within 30 days file an appeal with the Circuit Court for Montgomery County, Maryland, in the manner prescribed under Chapter 200, Title 7 of the Maryland Rules.

For the Board
September 20, 2018

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Angela Franco
Chair