

**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. 19-15**

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**ORDER OF DISMISSAL**

████████████████████ (Appellant), an employee of the Department of Liquor Control, filed an appeal with the Merit System Protection Board (Board or MSPB) on December 24, 2018. By letter that same day the Board acknowledged the appeal and advised Appellant that it was necessary for him to provide a copy of the Notice of Disciplinary Action (NODA) or Notice of Termination he was appealing within 15 working days. Montgomery County Personnel Regulations, §35-4(d)(1), §35-8(c). On December 31, 2018, Appellant submitted copies of a Statement of Charges – Dismissal, dated December 12, 2018, and his response thereto. The Board responded by letter that day again advising Appellant that he was required to file a NODA in order for the MSPB to consider the appeal. Appellant then telephoned the Board’s office on January 2, 2019, and told the Board’s Office Services Coordinator that he had provided documents to the Office of Human Resources (OHR) Equal Employment Opportunity and Diversity (EEO) unit. That afternoon the MSPB again wrote to Appellant and reminded him of his responsibility to file a NODA with the Board in order to pursue his appeal.

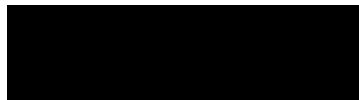
Having received no response to the requests for documentation, the Board issued a Show Cause Order on December 26, 2018, requiring Appellant to provide a statement of such good cause as exists for why he has failed to provide a required NODA. Appellant did not respond to the Show Cause Order even though it advised Appellant that absent the filing of a NODA or a finding by the Board of good cause for his failure to file a NODA, the Board would dismiss his appeal for lack of jurisdiction. MCPR § 35-7(b) & (c); MSPB Case No. 18-26 (2018); MSPB Case No. 17-06

(2017); MSPB Case No. 15-09 (2015). Moreover, pursuant to MCPR § 35-7(b), the Board may dismiss an appeal if the appellant fails to prosecute the appeal or comply with the Board's appeal procedures. It is well settled that the sanction of dismissal may be imposed if a party fails to prosecute or defend an appeal. MSPB Case No. 19-10 (2019); MSPB Case No. 15-19 (2015).

After being given the opportunity, Appellant has not provided a copy of a NODA. Thus, because Appellant has not provided the copy of the NODA or responded to letters from the Board and a Show Cause Order, the Board must dismiss this matter for failure to comply with established appeal procedures, due to Appellant's failure to prosecute his case, and because the Board lacks jurisdiction. MCPR § 35-7(b) & (c); MSPB Case No. 19-10 (2019); MSPB Case No. 17-17 (2017); MSPB Case No. 17-06 (2017); MSPB Case No. 15-09 (2015). Accordingly, it is hereby **ORDERED** that the appeal in Case No. 19-10 is **DISMISSED**.

If any party disagrees with the decision of the Merit System Protection Board, pursuant to Montgomery County Code, §33-15, *Judicial review and enforcement*, and MCPR, §35-18, *Appeals to court of MSPB decisions*, an appeal may be filed with the Circuit Court for Montgomery County, Maryland County, Maryland in the manner prescribed under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board  
February 5, 2019



Michael J. Kator  
Chair