

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

IN THE MATTER OF

[REDACTED],

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NO. 21-05

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ORDER OF DISMISSAL

Appellant filed the above captioned appeal with the Merit System Protection Board (Board or MSPB) on August 24, 2020, appealing an August 20, 2020, decision of the County Chief Administrative Officer upholding a determination by the Benefits Administration Division of the Employee Retirement Plans to offset Appellant’s service related disability benefits.¹

On October 13, 2020, the County Chief Administrative Officer issued a letter stating that “After re-examining your employment information, I am granting your request that the County cease offsetting your service-connected disability retirement benefit and you will receive a refund of the amounts withheld.” On October 14, 2020, Appellant emailed the Board and asked that her appeal be withdrawn in light of the County’s decision to provide the relief she requested.

Pursuant to MCPR § 35-7(d), the Board may dismiss an appeal if the appeal becomes moot. The Board has long taken the position that the withdrawal of an appeal renders that appeal moot. MSPB Case No. 21-02 (2020); MSPB Case No. 17-18 (2017). *See* MCPR §35-7(b) (Board may dismiss an appeal if the appellant fails to prosecute the appeal).

Accordingly, for the above reasons, the Board hereby **ORDERS** that the above-captioned appeal be **DISMISSED**.

¹ On February 11, 2020, the Benefits Administration Division advised Appellant that because her income exceeded the salary of her prior position, her disability retirement benefits would be totally offset until after she had reached normal retirement age. *See* Montgomery County Code, § 33-43(j)(2).

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*, within 30 days an appeal may be filed with the Circuit Court for Montgomery County, Maryland, in the manner prescribed under Chapter 200, Title 7 of the Maryland Rules.

For the Board
October 21, 2020


Harriet E. Davidson
Chair