

**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. 21-02

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ORDER OF DISMISSAL

On August 5, 2020, Appellant filed a direct grievance appeal with the Merit System Protection Board (MSPB or Board) concerning the alleged failure of the Office of Human Resources (OHR) to grant him a within grade salary increase.

Under Montgomery County Personnel Regulation (MCPR) § 34-5, an employee may appeal a Step 2 grievance decision of the County’s Chief Administrative Officer (CAO) to the MSPB. Because Appellant had not yet received a Step 2 grievance decision of the CAO and the Board concluded that the processing of Appellant’s grievance appeal would benefit from a Step 2 decision by the CAO, on August 10, 2020, the Board issued an Order requesting a Step 2 decision of the CAO. *See* MCPR § 34-9(a)(4).

On September 7, 2020, the designee of the CAO emailed the Board to advise that as a result of the Step 2 meeting the appeal was resolved by granting Appellant’s grievance and raising his salary retroactive to March 4, 2020. The CAO’s designee indicated that this resolution was satisfactory to all involved, and that Appellant no longer wished to pursue his appeal with the MSPB. Appellant subsequently emailed the Board to confirm that he wished for his appeal to be withdrawn.

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. 17-18 (2017); MSPB Case No. 17-11 (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**.

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
September 16, 2020


Harriet E. Davidson
Chair