

**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. 23-03**

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**ORDER OF DISMISSAL**

On August 31, 2022, Appellant filed an online appeal with the Merit System Protection Board (MSPB or Board), attaching a Statement of Charges for a 3-day suspension dated August 26, 2022. That same day the Board’s Executive Director sent Appellant a letter acknowledging receipt of the appeal. The acknowledgement letter also explained that a Statement of Charges is not the same as a Notice of Disciplinary Action (NODA), Montgomery County Personnel Regulations (MCPR) § 33-6, and that a direct appeal to the MSPB may only be filed after receipt of a NODA. MCPR §35-2(a); §35-4(d)(1). Appellant was asked to provide a NODA and warned that if the MSPB did not receive a NODA an order dismissing the appeal without prejudice may be issued.


On October 27, 2022, the Board issued a Show Cause Order requiring Appellant to provide a statement of such good cause as exists for why he has failed to file the required NODA with the Board. The statement was to be filed with the Board on or before close of business November 8, 2022. To date, Appellant has not filed the requested documentation or otherwise contacted the Board.

As Appellant was notified that absent the filing of the required documentation and a finding by the Board of good cause for his failure to timely file the documentation, the Board would dismiss his appeal, the Board will dismiss the appeal. MCPR § 35-7(b) and (c); MSPB Case No. 18-26 (2018); MSPB Case No. 17-06 (2017); MSPB Case No. 15-09 (2015).

Accordingly, it is hereby **ORDERED** that the appeal in Case No. 23-03 be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to comply with the Board’s appeal procedures and for lack of jurisdiction. MCPR § 35-7(b) and (c). Should Appellant receive a NODA he may then file a timely appeal.

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 of this Order a petition for judicial review may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board  
December 5, 2022

  
Harriet E. Davidson  
Chair