

**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. 24-18**

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**SHOW CAUSE ORDER**

Appellant filed an appeal of a disciplinary action or termination on May 9, 2024, and attached a memorandum dated April 30, 2024, which notified him he was being placed on administrative leave. On May 14, 2024, the Board's Office Services Coordinator (OSC) sent Appellant an acknowledgment letter explaining that the Board could not process his appeal until receipt of a Notice of Disciplinary Action or Notice of Termination. After Board office hours on May 23, 2024, Appellant emailed to the Board a copy of a Notice of Proposed Termination. On May 29, 2024, Appellant filed a second appeal form which appeared to involve the same termination, however the documentation attached to the appeal form was not in an accessible format that could be opened by Merit System Protection Board (MSPB or Board) staff. That same day the OSC sent Appellant a letter again requesting a Notice of Termination (NOT). On May 31, 2024, Appellant emailed the OSC:

I sent the email with the attached letter of termination and did not get a response back so I sent in another appeal form for the same issue. Both appeals are for the same issue. The first one was wrong because it was just putting me on admin leave and this one is the termination saying I have 10 days from May 23rd. Just haven't heard any word. Also is this a scenario where I need to get my own employment lawyer? Thank you

On June 3, 2024, the OSC responded to Appellant's email and explained:

Thank you for confirming that both appeals are for the same issue. You submitted a Notice of Proposed Termination to the Merit System Protection Board (MSPB or Board), which was dated May 21, 2024 and stated that final action on this matter

has not been taken. Therefore, the Board does not yet have jurisdiction over your appeal. Please see Section 29 of the Montgomery County Personnel Regulations (MCPR), specifically Section 29-4, which explains the difference between a Notice of Proposed Termination and a Notice of Termination.

If you do receive a Notice of Termination and wish to proceed with your direct appeal to the MSPB, you must submit the Notice of Termination to the Board within ten (10) working days after your receipt. The Board would then provide you with an acknowledgment letter stating the instructions for filing your prehearing submission.

Alternatively, if you do receive a Notice of Termination and instead decide to pursue the grievance process per your appeal rights as stated on the notice, please notify the Board in writing so that your appeal will be stayed until the completion of the grievance process.

The MSPB cannot provide you with legal advice. Per MCPR Section 35-9, you have the right to be represented by an individual of your choosing. (emphasis in original).

When Appellant failed to provide a Notice of Termination, on July 31, 2024, the OSC followed up with a letter to him stating that to date the Board still had not received a copy of the required documentation. After Board office hours on July 31, 2024, Appellant responded by email and attached a copy of the NOT. Appellant also included a copy of a Statement of Charges dated June 13, 2024, for a thirty (30) day suspension unrelated to his current appeal. On August 1, 2024, the OSC sent Appellant a letter acknowledging receipt of the NOT and setting the due dates for the parties' prehearing submissions. The letter also stated:

You also attached to yesterday's email a Statement of Charges dated June 13, 2024, for a thirty (30) day suspension unrelated to your current appeal. If you do receive a Notice of Disciplinary Action for that suspension, you may then file a grievance under Section 34 of the Montgomery County Personnel Regulations (MCPR) or appeal directly to the Merit System Protection Board under MCPR Section 35. *See* MCPR, § 33-9.

The County timely filed its prehearing submission on September 3, 2024. When Appellant did not file his prehearing submission by his September 25, 2024, due date, the OSC sent Appellant an email on October 14 notifying him that the Board was allowing him until October 24, 2024, to do so. The email also explained that he must ask for an extension beyond October 24 in writing and warned that pursuant to MCPR § 35-7(b), "The MSPB may dismiss an appeal if the appellant fails to prosecute the appeal or comply with established appeal procedures. The MSPB must give the County and the appellant prior notice of its intent to dismiss for lack of prosecution or compliance with an MSPB rule or order."

Appellant did not respond or file a prehearing submission by October 24, so on December 10, 2024, the OSC called Appellant by telephone. Appellant told the OSC that he no longer wished to pursue his appeal. The OSC followed the phone conversation with an email requesting

“confirmation of this decision or to request an extension of the prehearing submission filing deadline.”

On December 16, 2024, Appellant emailed, “I would like an extension so I can talk to someone about my charges against me that there was no investigation, and I was found guilty without and *[sic]* evidence.” The OSC responded to Appellant:

I have forwarded your extension request to the Board. I will follow up with you and Ms. [REDACTED] via email once the Board makes a decision on your request.

Despite repeated written notifications advising Appellant of his obligation to file a prehearing submission Appellant has failed to do so and has now requested an extension. For the above reasons, the Board hereby **ORDERS** Appellant to provide a statement of such good cause as exists for why he has failed to timely file the required prehearing submission related to the appeal of his termination. The statement shall be filed with the Board on or before close of business **February 6, 2025**, with a copy served on the County. The County shall have the right to file a response on or before **February 13, 2025**. The statement may be filed by email to [MSPB.Mailbox@montgomerycountymd.gov](mailto:MSPB.Mailbox@montgomerycountymd.gov) or hardcopy mailed to and received by the Board’s office at 100 Maryland Avenue, Suite 113, Rockville, Maryland 20850 by the due date.

Appellant is hereby notified that absent the proper filing of an explanation and a finding by the Board of good cause for his failure to timely file the prehearing submission, the Board will dismiss his appeal. MCPR § 35-7(b); MSPB Case No. 18-26 (2018); MSPB Case No. 17-06 (2017); MSPB Case No. 15-09 (2015).

For the Board  
January 29, 2025

[REDACTED]  
Barbara S. Fredericks  
Chair