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BERNICE WILLIS

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BEFORE THE TENNESSEE
CIVIL SERVICE COMMISSION

IN THE MATTER OF:	)	
	)	
	)	
BERNICE WILLIS	)	**DOCKET NO. 26.45-113143J**
	)	
	)	

INITIAL ORDER of DISMISSAL

This matter was before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Tennessee Civil Service Commission. Mr. Fredrick Zimmermann, Staff Attorney, Tennessee Department of Intellectual and Developmental Disabilities, represented the State. Grievant Bernice Willis represented herself.

This matter commenced on July 11, 2011, nearly one (1) year ago. Grievant sought representation by TSEA, but TSEA declined to represent the Grievant on April 2, 2012. By Order of April 3, 2012, Grievant was provided thirty (30) days to obtain an attorney or to elect to represent herself. When no word was received from Grievant, by Order of May 15, 2012, Grievant was provided until June 4, 2012 to indicate whether or not she would be representing herself or had obtained other representation. As of June 8, 2012, no response has been received to the Order of April 3rd or the Order of May 15th.

Grievant's repeated failure to respond constitutes a basis to hold the Grievant in default and to dismiss her appeal, pursuant to Rule 1360-04-01-.15(1)(a):

> The failure of a party to attend or participate in a prehearing conference, hearing or other stage of contested case proceedings after due notice thereof is cause for holding such party in default pursuant to T.C.A. Section 4-5-309. Failure to

> comply with any lawful order of the administrative judge or agency, necessary to maintain the orderly conduct of the hearing, may be deemed a failure to participate in a stage of a contested case and thereby be cause for a holding of default.

On June 4, 2012, the State filed a Motion to Dismiss this appeal on several grounds. First, the State asserts correctly that performance evaluation ratings are not grievable, pursuant to Rule 1120-11-.07(7). Second, the State asserts that this matter is moot because Commissioner Henry voided the performance evaluation complained of. Third, the State complains about the lack of response from Grievant.

It is **CONCLUDED** that the State's Motion to Dismiss is well-founded. Therefore, the State's motion is hereby **GRANTED**.

Accordingly, it is hereby **ORDERED** that the instant appeal is **DISMISSED** and that the file is **CLOSED**.

This Order is issued as an Initial Order, with appeal rights, since it is dispositive of the appeal.

This Initial Order entered and effective this 11 day of June, 2012

_____
Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 11 day of June, 2012

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Thomas G. Stovall, Director
Administrative Procedures Division