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2-17-2012

Civil Service Commission vs. TAMIEKA JOHNSON

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**BEFORE THE TENNESSEE
CIVIL SERVICE COMMISSION**

IN THE MATTER OF:)
)
)
TAMIEKA JOHNSON) **DOCKET NO. 26.43-115746J**
)
)

INITIAL ORDER OF DEFAULT AND DISMISSAL

This matter is before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Tennessee Civil Service Commission. Grievant Tamiaka Johnson is representing herself, as of this writing. The Tennessee Department of Children’s Services is represented by Assistant General Counsel Mickie F. Smith.

This matter commenced February 17, 2012. The Undersigned issued an Opening Letter on February 22, 2012. As of July 3, 2012, Grievant has yet to respond to the Undersigned’s opening letter, asking that Grievant present herself for a conference call to set the hearing in this matter.

On March 1, 2012, the State informed the Grievant that her three (3) day suspension had been reduced to a one (1) day suspension, as a result of Grievant’s Level IV Hearing. No acknowledgment was received from Grievant. It then became unclear whether the Grievant was satisfied with the reduction from three (3) to one (1) days or whether Grievant wanted to pursue a Fifth Step Hearing.

An Order was issued on April 17, 2012, in an effort to determine how or whether the Grievant wished to proceed. Grievant's written response was due on or before April 30, 2012. No written response has been received from the Grievant, as of July 3, 2012.

As of April 24, 2012, the State had not received a reply from the Grievant, per the State's First Status Report. However, on April 27, 2012, the State phoned to indicate that it had received a telephone call from Grievant, indicating that she does wish that a hearing be held.

As of June 8, 2012, no further word had been received from the parties, so a second Status Inquiry Order was issued on June 11, 2012, requiring response on or before June 25, 2012. The State's Second Status Report indicated on June 18, 2012, that the Grievant had resigned her position with the Department of Children's Services.

As of July 3, 2012, no word has been received from Grievant regarding the import of her resignation and no word has been received regarding setting of the hearing date and time.

When a party to litigation does not make him or herself available to set the hearing date and respond to Orders, that party can be held in default, pursuant to TCA 4-5-309(a):

If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge... may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

After due consideration, based on Grievant's repeated lack of response, the Grievant is hereby **HELD IN DEFAULT** for failure to participate in the process of

setting and convening the hearing. Therefore, the instant proceedings are hereby **ADJOURNED** and this matter is **DISMISSED**.

This Order is issued as an Initial Order because it is dispositive of the Grievant's complaint, unless the Grievant comes forward with a timely Petition for Reconsideration or otherwise voices disapproval of dismissal of this matter.

This Initial Order entered and effective this 5 day of July, 2012

Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 5 day of July, 2012

Thomas G. Stovall, Director
Administrative Procedures Division