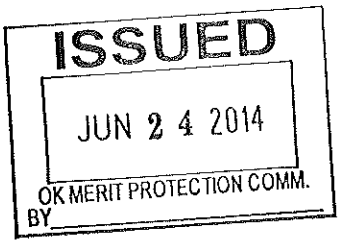
BEFORE THE MERIT PROTECTION COMMISSION
STATE OF OKLAHOMA

DEBRA GARDNER,	)	
	)	
Appellant,	)	
	)	
v.	)	MPC 14-139
	)	
DEPARTMENT OF CORRECTIONS,	)	
	)	
Appellee.	)	



FINAL ORDER

This matter came before the undersigned for hearing on June 24, 2014, at 10:00am. The record was opened and the hearing commenced. Both parties failed to attend the hearing and therefore neither was prepared to move forward when called.

The court noted for the record the hearing date of June 24, 2014, at 10:00am had been set at the Prehearing Conference on April 18, 2014, and was included in the Prehearing Conference Order. The court also noted for the record the Notice of Hearing was issued on April 28, 2014, which also stated the hearing would begin on June 24, 2014, at 10:00am. After reviewing the online filing docket, the court found no motion to continue the hearing or to dismiss the appeal had been filed. Because Appellant failed to appear to prosecute her appeal or to seek a continuance of the hearing, the appeal was dismissed and the record closed.

FINDINGS OF FACT

Background

1. Per the parties stipulations contained in the Prehearing Conference Order, the MPC has jurisdiction over this appeal.

2. The Prehearing Conference in this matter was held on April 18, 2014, and the hearing in this matter was set to begin on June 24, 2014, at 10:00am.

3. A Notice of Hearing was issued by the Commission on April 28, 2014, which stated the hearing would be held starting on June 24, 2014, at 10:00am.

4. The parties failed to appear at the hearing.

5. No motion to continue the hearing was filed with the Commission prior to the hearing.

Discussion

Merit Rule 10-9-2(b) sets forth the obligations of the parties at a hearing. It states: "Each party shall be present, on time and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown." Here, the parties were not present at the hearing. Merit Rule 10-9-2(e)(4) states that a motion to continue the hearing shall be filed no less than three (3) calendar days before the hearing unless good cause is shown. Here, no motion to continue was filed prior to the actual time for the hearing.

The undersigned was in attendance at the date and time of the hearing. The parties failed to honor their obligations under Merit Rule 10-9-2. As a result, the appeal was dismissed pursuant to Merit Rule 10-9-2(b).

CONCLUSIONS OF LAW

1. The Oklahoma Merit Protection Commission has jurisdiction over the parties and the subject matter in this case.

2. Any finding of fact that is properly a conclusion of law is hereby incorporated as a conclusion of law.

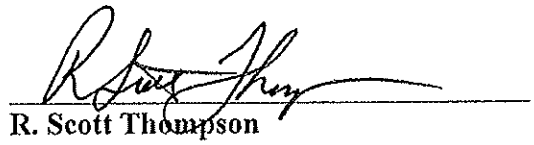
3. Merit Rule 10-9-2(b) requires the parties to be present at the hearing and ready to proceed with their case.

4. Merit Rule 10-9-2(e)(4) requires a written motion to continue a hearing and requires that said motion be filed no less than three (3) calendar days before the hearing.

5. Merit Rule 10-9-2(b) allows the court to dismiss an appeal for the failure of the parties to appear.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Appellant's appeal shall be **DISMISSED.**

Signed this 24th day of June 2014



R. Scott Thompson
Administrative Law Judge
Oklahoma Merit Protection Commission
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Oklahoma City, OK 73112