

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 70-08

ORDER DENYING WITHDRAWAL OF APPEAL AND RESETTING HEARING

IN THE MATTER OF THE APPEAL OF:

GLENN SCHULTZ, Appellant,

vs.

DENVER ZOOLOGICAL FOUNDATION, INC.,
and the City and County of Denver, a municipal corporation, Agency.

This matter is before the Hearing Officer on Appellant's amended motion to withdraw this appeal. Appellant filed a separate motion requesting that the appeal be stayed pending mediation. The Agency responded to both motions.

The amended motion filed by Appellant's attorney requests withdrawal of the appeal, and states that the parties intend to pursue mediation. "The Appellant understands that the discipline which is the subject matter of the appeal will stand". Two days later, Appellant himself filed a handwritten document requesting a stay of the appeal until completion of the mediation. The Agency responded that the agreement to attend mediation was conditioned on withdrawal of the appeal, and that the Hearing Officer now lacks jurisdiction over the appeal based on counsel for Appellant's withdrawal of the appeal.

Appellant's promptly-filed handwritten statement demonstrates that he no longer wishes to accept the Agency's settlement offer. Dismissal based on settlement must be supported by a finding that the decision to settle is a voluntary one. On the state of the pleadings, I cannot find that Appellant voluntarily agrees to settlement on the terms proposed by the Agency. Therefore, his attorney's motion to withdraw the appeal, which is in essence a request to dismiss the appeal based on settlement, must be denied.

ORDER

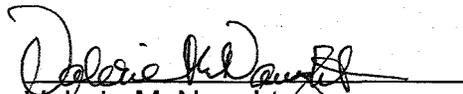
Based on the foregoing findings, it is ordered as follows:

1. The amended motion to withdraw the appeal is denied.

2. The hearing in this appeal will be held on:

Monday, January 12, 2009 8:30 a.m., at
Career Service Hearing Office
201 West Colfax Avenue, First Floor
Denver CO 80202
(720) 913-5703

Dated this 22nd day of December, 2008.


Valerie McNaughton
Career Service Hearing Officer