

**BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE**

COPY

LUCY A. LUTA,)	
)	
Employee/Grievant,)	
)	DOCKET No. 06-09-368
v.)	
)	
DEPARTMENT OF HEALTH AND)	
SOCIAL SERVICES,)	ORDER OF DISMISSAL
)	
Employer/Respondent.)	

For nearly two years, the Board has granted continuances of a hearing in this appeal at the request of Dr. Lucy A. Luta. By letter dated September 8, 2008, the Board's Administrative Assistant advised Dr. Luta that the Chair had denied her latest request for a continuance of the hearing scheduled for October 16, 2008. That letter further advised: "[Y]ou must notify the Board in writing no later than the close of business on October 9, 2008 whether or not you will be attending the hearing, . . . If the Board does not receive timely written confirmation from you then the Board will infer that you have abandoned your grievance, and the Board will cancel the hearing and dismiss your appeal."

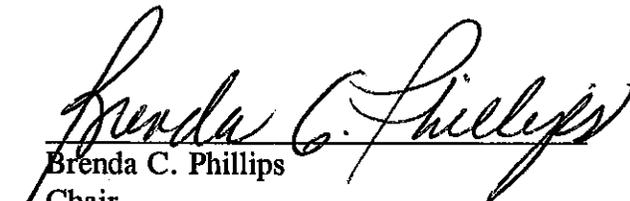
By letter dated received by the Board's Administrative Assistant on October 1, 2008, you stated that "I'm not in a position to have a MERB hearing on 10/16/08. Without a continuance, I will seek other avenues through which my case can be addressed."

In *Robinson v. Visiting Nurse Association*, Civ.A.No. 99A-10-003, 2000 WL 140785 (Del. Super., Jan. 28, 2000) (Quillen, J.), the Unemployment Insurance Appeals Board twice granted the claimant a continuance of her appeal hearing. The claimant failed to appear for the third

hearing, and the Board dismissed her appeal. The Superior Court held that "the Board acted within its authority in dismissing Claimant's appeal, especially considering the fact that [she] had been granted two continuances of her appeal at her request, and there was no allegation that she did not received notice of the appeal. On that ground alone, the decision of the Board is AFFIRMED." 2000 WL 140785, at p.2.

Based on the record, the Board believes that you have abandoned your appeal for failure to prosecute. Accordingly, the Board is canceling your October 16, 2008 hearing and dismissing your appeal.

SO ORDERED, this 16th day of October, 2008


Brenda C. Phillips
Chair