

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE
----- X

In the Matter of

ROY STALEY,

Appellant,

**DECISION AND ORDER
14 DOS APP. 01**

- against -

**DEPARTMENT OF STATE
DIVISION OF LICENSING SERVICES**

Respondent

----- X

Roy Staley [hereinafter “Appellant”] appeals from a decision of the Office of Administrative Hearings. The Department of State Division of Licensing Services [hereinafter the “Respondent”] filed a memorandum in opposition to Mr. Staley’s appeal.

ISSUE

This appeal considers whether the Office of Administrative Hearings committed reversible error when it held an ex-parte quasi-judicial administrative hearing in order to determine the Appellant’s fitness to be a registered security guard.

FINDINGS OF FACT

For the purpose of this opinion, the findings of fact in the decision of the Office of Administrative Hearings are adopted in full.

OPINION

A review of the record in this matter clearly establishes that proper notice of the scheduled administrative hearing was given to the Appellant. It is established law in New York that an ex-parte hearing may be held if proper notice of the hearing has been provided. See Patterson v. Department of State, 35 A.D.2d 616, 312 N.Y.S.2d 300 (1970). In this matter, the Department served notice at the address given to them by the Appellant. In fact, notice was served at the address which the Appellant lists as his address on his appeal. The Appellant was properly served, but for unknown reasons did not attend the scheduled hearing. Absent a good faith effort to attend a hearing or exigent circumstances the Department will not reschedule administrative hearings simply because the requesting party decided not to attend.

I find no reversible error was committed by the Administrative Law Judge. Judge Schneier was within his discretion to uphold the denial of Appellant's Security Guard Registration and absent an abuse of discretion I will not disturb his findings.

Moreover, the Appellant's long history of criminal misconduct demonstrates a lack of trustworthiness that is required to be a registered Security Guard in New York State.

DETERMINATION

The decision of the Office of Administrative Hearings is affirmed. Appellant's request for a new hearing is denied.

So ordered on:

Randy A. Daniels
Secretary of State