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Docket No. CH-844E-05-0234-I-1
Party: Appellant's Representative

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**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
CENTRAL REGIONAL OFFICE**

LARRY N. RUST,
Appellant,

DOCKET NUMBER
CH-844E-05-0234-I-1

v.

OFFICE OF PERSONNEL
MANAGEMENT,
Agency.

DATE: February 17, 2005

(CSA8245433)

Paul H. Felser, Esquire, Savannah, Georgia, for the appellant.

Thomas L. Styer, Washington, D.C., for the agency.

BEFORE

Gregory A. Miksa
Administrative Judge

INITIAL DECISION

INTRODUCTION

On December 30, 2004, Larry N. Rust timely appealed from the December 1, 2004 reconsideration decision of the Office of Personnel Management (OPM) in which OPM denied his claim for disability retirement under the Federal Employees Retirement System (FERS). *See* 5 U.S.C.A. § 8461(e)(1) (West 1996).

DISMISSAL OF APPEAL

On February 4, 2005, the appellant filed a motion seeking summary judgment or, in the alternative, a remand to OPM to afford the agency the


opportunity to review medical records that it failed to review before issuing its reconsideration decision. By motion filed February 9, 2005, OPM's representative certified that OPM has now rescinded its December 1, 2004 final reconsideration decision and is granting the appellant's application for a FERS disability retirement annuity. *See* Record at tab 10. OPM's representative further moved that the instant appeal be dismissed as moot.

Finding there is currently no final OPM reconsideration decision to review and that the appellant has been granted the full relief he sought in both his appeal and in his February 4, 2005 motion for summary judgment, I hereby GRANT OPM's motion and DISMISS the instant appeal as moot. *See Parker v. Office of Personnel Management*, 74 M.S.P.R. 131, 133 (1997); *Bernadino v. Office of Personnel Management*, 55 M.S.P.R. 615, 617 (1992); *Laudato v. Office of Personnel Management*, 6 M.S.P.R. 132 (1981).

DECISION

The appeal is DISMISSED.

FOR THE BOARD:



Gregory A. Miksa
Administrative Judge

NOTICE TO APPELLANT

This initial decision will become final on March 24, 2005, unless a petition for review is filed by that date or the Board reopens the case on its own motion. This is an important date because it is usually the last day on which you can file a petition for review with the Board. However, if this initial decision is received by you more than 5 days after the date of issuance, you may file a