

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ADENIKE ADEBIYI,
Appellant,

v.

**DEPARTMENT OF HEALTH,
BOARD OF NURSING,**
Appellee.

No. 4D17-3852

[June 13, 2018]

Administrative appeal from the State of Florida, Department of Health,
Board of Nursing; L.T. Case No. 17-01693.

Adenike Adebisi, Coral Gables, pro se.

Katelyn R. Boswell, Assistant General Counsel, Florida Department of
Health, Tallahassee, for appellee.

PER CURIAM.

We reverse the final order of the Board of Nursing suspending appellant's nursing license because the board issued the order pursuant to an informal hearing when a formal hearing was required. When it became apparent in the informal hearing that the appellant disputed the underlying facts of the proceeding, a formal hearing should have been convened. See § 120.57(1), Fla. Stat. (2017); *DeRosa v. State, Dep't of Fin. Servs.*, 175 So. 3d 946 (Fla. 4th DCA 2015); *Campbell v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate*, 868 So. 2d 1265, 1266 (Fla. 4th DCA 2004). Although appellee contends that appellant waived her right to a formal hearing, there is no written or oral waiver from appellant in the record — only emails from appellee's counsel assuming that appellant waived her right to a formal hearing. No election of an informal hearing is in the record, but there is a handwritten note from appellant stating that she wished to have a hearing to present her case; thus, this indicates appellant disputed the facts surrounding the Department's proposed suspension.

Reversed and remanded for a formal hearing.

WARNER, GROSS and TAYLOR, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.