

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ELLY HOLBERT-JACOBO,)	
)	
Plaintiff,)	TC-MD 160223N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL¹

This matter came before the court on its own motion to dismiss this case for lack of prosecution.

A case management conference was held on September 6, 2016, during which the parties agreed to a briefing schedule. On September 7, 2016, the court sent the parties a Journal Entry memorializing that briefing schedule, which included a September 20, 2016, deadline for Plaintiff to file a written response to Defendant’s Motion for Summary Judgment. The Journal Entry advised that failure to comply with the deadlines set forth therein might result in the dismissal of Plaintiff’s appeal. The Journal Entry was not returned as undeliverable.

The court did not receive Plaintiff’s written response by the September 20, 2016, deadline. On September 26, 2016, the court issued an Order instructing Plaintiff to file a written response to Defendant’s Motion for Summary Judgment within 14 days. The Order warned that the court would dismiss Plaintiff’s appeal for lack of prosecution if it did not receive Plaintiff’s written response within 14 days. The Order was not returned as undeliverable.

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¹ This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered October 14, 2016. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

Plaintiff's 14-day deadline has passed and the court has not received Plaintiff's written response or any further communication from Plaintiff. Under such circumstances, the court finds this appeal should be dismissed for lack of prosecution. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is dismissed.

Dated this ____ day of November 2016.

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your complaint must be submitted within 60 days after the date of the Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.

This document was filed and entered on November 1, 2016.