

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

DAWN L. MILLSAP,
Plaintiff,

vs.

INTERNAL REVENUE SERVICE,
Defendant.

No. 13-CV-95-LRR

ORDER

The matter before the court is Defendant Internal Revenue Service's ("IRS") "Motion to Dismiss" ("Motion") (docket no. 10).

On September 3, 2013, Plaintiff Dawn L. Millsap filed a Petition ("Complaint") (docket no. 3) in the District Court for Linn County, Iowa, Small Claims Division, Case No. SCSC 205925, alleging that the IRS owed her a \$300 refund. On September 20, 2013, the IRS removed the action to this court on the basis of federal question jurisdiction. Notice of Removal (docket no. 2). On November 13, 2013, the IRS filed the Motion.

In the Motion, the IRS requests that the court dismiss Millsap's claim for a \$300 refund from the IRS because: (1) the court does not have subject matter jurisdiction over Millsap's claim; (2) Millsap has not properly served the United States; and (3) Millsap failed to state a claim upon which relief may be granted. Pursuant to the local rules, Millsap had fourteen days in which to file a resistance to the Motion and an additional three days due to the electronic mailing rule. *See* LR 6, 7(e). Pursuant to Local Rule 7(f), "[i]f no timely resistance to a motion is filed, the motion may be granted without notice." LR 7(f).

Millsap did not file a resistance to the Motion by the deadline, November 30, 2013, and has yet to file a resistance. Therefore, the Motion is **GRANTED**. The Clerk of Court is **DIRECTED** to dismiss the claims against the IRS and **CLOSE THIS CASE**.

IT IS SO ORDERED.

DATED this 9th day of December, 2013.

A handwritten signature in black ink, appearing to read "Linda R. Reade", written over a horizontal line.

LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA