

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RAYMON DAVIS,

Plaintiff,

vs.

TYSON FOODS, INC.,

Defendant.

4:15-CV-3031

ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation (filing [20](#)) recommending that the Court dismiss the plaintiff's claims. The Court will adopt the Magistrate Judge's Findings and Recommendation.

Plaintiff's former counsel was granted leave to withdraw on August 14, 2015. Filing [15](#). The order granting counsel's leave to withdraw stated that the plaintiff was given until September 14 to "either: (a) obtain the services of counsel and have that attorney file an appearance in this case; or (b) file a statement notifying the court of his intent to litigate this case without the assistance of counsel." Filing [15](#). And the plaintiff was warned that his failure to do so could result in a dismissal of his claims without further notice. Filing [15](#). The plaintiff failed to comply with the Court's order.

The Magistrate Judge entered an order (filing [17](#)) on October 8, 2015, directing the plaintiff to show cause why his claims should not be dismissed. The plaintiff did not respond, so on November 17, the Magistrate Judge entered her Findings and Recommendation (filing [20](#)). The time for objecting to the Findings and Recommendation has now passed, and no objection or other response has been made.

An involuntary dismissal for failure to comply with the Court's order, or for failure to prosecute, is within the Court's discretion. [Fed. R. Civ. P. 41\(b\)](#); [NECivR 41.2](#); see *Schooley v. Kennedy*, 712 F.2d 372, 373-74 (8th Cir. 1983). The plaintiff has failed to comply with the Court's orders and generally failed to prosecute the case. And [28 U.S.C. § 636\(b\)\(1\)](#) provides for de novo review only when a party objected to the magistrate's findings or recommendations. *Peretz v. United States*, 501 U.S. 923 (1991). The failure to file an objection eliminates not only the need for de novo review, but *any* review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009). Accordingly, the Court deems

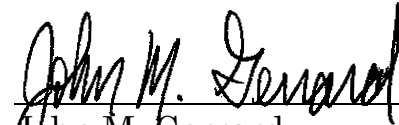
any objection to the Magistrate Judge's Findings and Recommendation waived, and will adopt the Findings and Recommendation.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (filing [20](#)) are adopted.
2. The plaintiff's complaint is dismissed.
3. A separate judgment will be entered.

Dated this 7th day of December, 2015.

BY THE COURT:

  
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John M. Gerrard  
United States District Judge