

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

KASSANDRA L. KELLY,	)	
	)	
Plaintiff,	)	TC-MD 170046R
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL<sup>1</sup></b>

Plaintiff filed her Complaint on February 8, 2017, requesting relief from an assessment of payroll withholding tax. The court requested additional information from Plaintiff in letters dated February 13, 2017, and March 6, 2017. Because the court was awaiting a response from Plaintiff, the court did not serve a copy of the Complaint on Defendant.

On March 15, 2017, the court received the following documents from Plaintiff: a Notice of Assessment, dated January 4, 2017, showing tax, penalty, and interest due on Plaintiff's Withholding (Payroll) account; a letter from Defendant, dated March 1, 2017, stating, "Your Withholding (Payroll) debt has been paid in full as of February 23, 2017"; and a note stating that the matter was "[a]ll resolved." At the court's request, Plaintiff filed an additional letter on April 3, 2017, confirming that she wished to withdraw her appeal because the issue was "resolved satisfactorily." Upon consideration, the court grants Plaintiff's request to dismiss her appeal.

Plaintiff's April 3, 2017, letter also requested a refund of the filing fee. A request for costs and disbursements, including the filing fee, can be made within 14 days after the entry of a decision. *See* Tax Court Rule-Magistrate Division (TCR-MD) 16 C(1)(b). Ordinarily, a simple

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<sup>1</sup> This Final Decision of Dismissal incorporates the court's Decision of Dismissal, entered April 12, 2017.

request for an award of the filing fee within the 14-day period would be sufficient; however, the posture of this case is somewhat unusual. Therefore, the court instructed Plaintiff to file, within 14 days of the date of the Decision of Dismissal, an explanation describing why the court, in its discretion, should award the filing fee to Plaintiff. The court instructed Defendant to file a response to the cost request, if any, within 30 days of the date service of Plaintiff's explanation.

On April 20, 2017, Plaintiff filed a letter explaining that she was sent an erroneous assessment and that she had no recourse except to file an appeal with this court. As of the date of this Final Decision of Dismissal, the court has not received a response from Defendant. Having considered the matter, the court concludes that Plaintiff should be awarded her filing fee of \$252. Now, therefore,

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

IT IS FURTHER DECIDED that Plaintiff's request for her filing fee is granted.

Defendant shall reimburse Plaintiff her filing fee in the amount of \$252.

Dated this \_\_\_\_ day of June 2017.

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RICHARD DAVIS  
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 June 8, 2017.***