

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

BRYAN HADLEY,)	
)	
Plaintiff,)	TC-MD 130492N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL

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

A case management conference was scheduled at 10:00 a.m. on November 13, 2013, to consider Plaintiff’s appeal. On October 29, 2013, the court sent notice of the scheduled case management conference to Plaintiff at the email address that he provided to the court. The notice was not returned as undeliverable. The notice advised that if Plaintiff did not appear, the court might dismiss the appeal. Plaintiff failed to appear for the November 13, 2013, case management conference and the court sent a letter to Plaintiff at his mailing address on November 13, 2013. The court’s letter explained the importance of diligently pursuing an appeal. That letter was not returned as undeliverable. The letter advised that if Plaintiff did not provide a written explanation by November 27, 2013, for his failure to appear, the court would dismiss the appeal.

On November 27, 2013, Plaintiff filed a letter with the court explaining his failure to appear for the November 13, 2013, case management conference and confirming his intent to continue with this appeal. (Ptf’s Ltr at 1, Nov 27, 2013.) In his letter, Plaintiff stated that “[f]rom December 15 to January 7, [he would] be available all day * * *.” (*Id.*)

The court scheduled a second case management conference in this matter at 9:00 a.m. on Monday, December 16, 2013. On November 27, 2013, the court sent notice of the scheduled case management conference to Plaintiff at the email address that he provided to the court. The notice was not returned as undeliverable. The notice advised that if Plaintiff did not appear, the court might dismiss the appeal. Plaintiff, again, failed to appear for the case management conference scheduled on December 16, 2013. The court sent a second letter to Plaintiff at his mailing address on December 16, 2013. That letter was not returned as undeliverable. The letter advised that if Plaintiff did not provide a written explanation by December 31, 2013, for his failure to appear, the court would dismiss the appeal.

As of the date of the Final Decision of Dismissal, the court has not received Plaintiff's written explanation or any further communication from Plaintiff. Under such circumstances, the court finds that Plaintiff's appeal must be dismissed for lack of prosecution. Now, therefore,

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

Dated this ____ day of January 2014.

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.

This document was signed by Magistrate Allison R. Boomer on January 3, 2014. The court filed and entered this document on January 3, 2014.