

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MATTHEW S. JOHNSON,)	
)	
Plaintiff,)	TC-MD 0309042D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION OF DISMISSAL

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

A case management conference was scheduled to begin at 9:30 a.m. on Thursday, October 16, 2003, to consider Plaintiff's appeal. The court sent notice of the scheduled telephone conference to Plaintiff in a notice dated September 2, 2003. The notice was sent to Plaintiff at 12847 SE Foster Road, Portland, Oregon 97236, which is the address Plaintiff provided to the court. The notice was not returned as undeliverable.

On October 16, 2003, the court wrote to Plaintiff and requested that he submit a written explanation stating why he failed to appear. In its letter, the court advised that Plaintiff's written explanation was to be submitted no later than October 30, 2003. In addition, the court stated that failure to respond by that date would result in Plaintiff's appeal being dismissed. As of this date, Plaintiff has not responded to the court's letter.

A case may be dismissed when the participant seeking relief fails to appear. For purposes of a telephone proceeding, a participant "appears" by being available at the telephone number provided to the court by that participant on the date and at the time prescribed. In addition, the court advised Plaintiff that failure to respond to the court's letter

would result in his case being dismissed. Because Plaintiff failed to appear for the scheduled proceeding and respond to the court's letter, the court finds the case should be dismissed. Now, therefore,

IT IS THE DECISION OF THIS COURT that the Complaint is dismissed.

Dated this _____ day of November, 2003.

JILL A. TANNER
PRESIDING MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, 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 DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON NOVEMBER 10, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 10, 2003.