

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Disabled Citizens' Property Tax Deferral

REBECCA A. BURGIN,)	
)	
Plaintiff,)	TC-MD 050978E
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant's Disqualification Notice for the Disabled Citizens' Property Tax Deferral Program. In the Disqualification Notice, Defendant advised Plaintiff that she did not qualify for the program because her 2004 income was above the allowable limit. Plaintiff claims her 2004 income was below the allowable limit.

I. STATEMENT OF FACTS

On March 9, 2006, the court held a case management conference to discuss the appeal. After discussing the facts and law, the parties agreed to set the case for trial on May 2, 2006, at 9:00 am. At the time set for trial, the court telephoned Plaintiff at (503) 367-3772 and (281) 232-3922. Plaintiff had previously provided the court with those telephone numbers. Plaintiff did not answer either of the court's calls. As a result, the court left messages advising Plaintiff to promptly return the court's call so that the trial could be held. Plaintiff did not respond to the court's messages.

II. ANALYSIS

ORS 305.427¹ provides that in proceedings before the Tax Court, "[t]he burden of proof shall fall upon the party seeking affirmative relief." Because Plaintiff is seeking relief in this

¹ All references to the Oregon Revised Statutes are to 2005

case, she has the burden of proof. That means Plaintiff must establish her claim “by a preponderance of the evidence, or the more convincing or greater weight of evidence.” *Schaefer v. Dept. of Rev.*, TC No 4530 at 4 (July 12, 2001) (citing *Feves v. Dept. of Revenue*, 4 OTR 302 (1971)).

Because Plaintiff failed to appear for the scheduled trial, she did not present any information or testimony in support of her claim. As a result, the court must deny Plaintiff’s appeal because she failed to satisfy her burden of proof. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s appeal is denied.

Dated this _____ day of May 2006.

COYREEN R. WEIDNER
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 Coyreen R. Weidner on May 9, 2006. the Court filed and entered this document on May 9, 2006.