

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

LISA MARIE MILLS,	)	
	)	
Plaintiff,	)	TC-MD 070722E
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

This matter is before the court on its own motion to dismiss Plaintiff’s appeal for failure to prosecute. Plaintiff filed her Complaint with the court on September 10, 2007. Since that time, there have been two court proceedings, held by telephone, at which Plaintiff appeared. Those proceedings were held on November 19, 2007, and March 3, 2008. However, Plaintiff has failed to appear for three additional proceedings scheduled for January 18, 2008, July 28, 2008, and October 29, 2008.

Additionally, the trial in this matter, scheduled for April 22, 2008, was set over at Plaintiff’s request, with Defendant’s assent. Plaintiff had agreed to provide Defendant with certain additional information in lieu of the April 22 trial, with the intent that the matter would be resolved informally between the parties. Plaintiff failed to provide the requested information. By letter filed July 11, 2008, Defendant informed the court in writing that it had not received the information it had requested from Plaintiff and recommended that the court uphold Defendant’s denial of the Oregon child care credit in the amount of \$180, and the working family credit in the amount of \$1,944. That letter indicates that “[t]his decision would uphold the Assessed Deficiency still owing in the amount of \$835 plus statutory penalty and interest.”

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Notice of the latest hearing, scheduled for October 29, 2008, was sent to Plaintiff at her new Arizona address September 15, 2008. The notice was not returned as undeliverable. The court's September 15 hearing notice advised Plaintiff that her "failure to be available for this court proceeding may result in dismissal of [her] case." That notice included typical court language advising Plaintiff of the importance of being available for the telephone proceeding, instructed her to call the court if she did not hear from us within 10 minutes, and explained the procedure for requesting a rescheduling of the hearing. Plaintiff did not contact the court within 10 minutes of the scheduled proceeding, and did not request a setover of the October 29 proceeding. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this \_\_\_\_\_ day of November 2008.

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DAN ROBINSON  
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 Dan Robinson on November 7, 2008.  
The Court filed and entered this document on November 7, 2008.***