

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JOHN RUSH,)	
)	
Plaintiff,)	TC-MD 080122D
)	
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.

On February 14, 2008, Jeff Kemp (Kemp) filed a letter with the Magistrate Division of this court regarding John R. Rush (Rush), along with a \$25 check. Because a check was received in the amount of the filing fee, the court accepted that letter as an appeal. Rush did not sign the letter nor was there any indication that he had authorized Kemp to represent him.

On February, 15, 2008, court staff sent Kemp a letter asking he file an amended complaint to have a valid appeal in the Tax Court. Tax Court Rule-Magistrate Division (TCR-MD) 1. That letter also stated that Rush must file an authorization to represent form if Kemp was to represent him in this appeal. ORS 305.230(2).¹ TCR-MD 1 E(1)(b). Forms for both documents were included. Kemp was given until February 29, 2008, to respond.

Kemp did not respond to that letter. A second letter was sent by the court, again asking for an amended complaint form and for an authorization to represent form to be filed. That letter indicated that if the court had not received the requested items by March 14, 2008, the case

¹ Reference to the Oregon Revised Statutes (ORS) is to 2007. ORS 305.230(2) states in relevant part: "A person may not be recognized as representing a taxpayer pursuant to this section unless there is first filed with the magistrate * * * a written authorization."

would be dismissed and closed. A copy of the February 15, 2008, letter and the requested forms were enclosed.

As of this date, Kemp has not responded to the court's letters. Under such circumstances, the court finds the appeal must be dismissed for failure to file a valid complaint. Now, therefore,

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

Dated this _____ day of March 2008.

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 Presiding Magistrate Jill A. Tanner on March 19, 2008. The Court filed and entered this document on March 19, 2008.