

IN THE OREGON TAX COURT
REGULAR DIVISION
Income Tax

LAQUEENA PATTERSON,)
)
Plaintiff,) **TC 4885**
v.)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.) **ORDER GRANTING DISMISSAL**

This matter comes before the court on Defendant's Motion to Dismiss and Plaintiff's Objection to Motion to Dismiss. Plaintiff's handwritten Complaint was filed on March 3, 2009. Defendant moved the court for an order dismissing Plaintiff's Complaint on March 23, 2009, pursuant to ORS 305.419(1) and Tax Court Rule (TCR) 21 A(1) and (8) for Plaintiff's failure to pay assessed taxes, penalties and interest on or before the filing of Complaint, and also pursuant to TCR 18C for failure to allege such payment or to request hardship deferral of such payment.¹

By April 13, 2009, court had received no response from Plaintiff to Defendant's Motion to Dismiss. Court wrote a letter to Plaintiff on that date, advising Plaintiff to submit a written response to Defendant's motion by April 23, 2009, or risk her appeal being dismissed. Plaintiff sent by electronic facsimile a handwritten response to Defendant's motion that was received and filed by the court on April 23, 2009. On May 4, 2009, court was contacted via telephone by Theresa I. Soto, Attorney at Law, who advised the court that she was representing Plaintiff. Court advised Plaintiff's counsel of the case posture, and directed her to file an appearance in the

¹ All references to the Oregon Revised Statutes (ORS) are to the 2007 edition.

case. Plaintiff's counsel filed Notice of Representation on May 27, 2009. A case management conference (CMC) was held on June 8, 2009, and a briefing schedule was agreed to. Plaintiff's counsel filed Objection to Motion to Dismiss on June 16, 2009. Defendant filed Reply to Plaintiff's Objection to Motion to Dismiss on June 23, 2009.

Court then scheduled a CMC for July 6, 2009. Notice of that hearing was sent on June 24, 2009, and was not returned as undeliverable. Court staff could not reach Plaintiff's counsel at the telephone numbers she provided to the court and court determined that Plaintiff's counsel failed to appear for the CMC on July 6, 2009. Court sent a letter to Plaintiff's counsel on July 7, 2009, advising Plaintiff's counsel to provide court with her availability for a new CMC and valid telephone numbers by July 13, 2009, or the court would proceed to rule on the submissions before it. That letter was not returned as undeliverable. Also, on July 7, 2009, Plaintiff's counsel's office contacted the court by telephone to ask if Plaintiff's Objection to Motion to Dismiss had been received, and court staff advised Plaintiff's counsel's office of the case posture. As of this date, Plaintiff's counsel has not contacted the court with any response. Therefore,

After reviewing the motion and response and being fully advised of the premises, the court finds that such request should be granted. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is granted.

Dated this ____ day of July, 2009.

Henry C. Breithaupt
Judge

***THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUPT ON
JULY 20, 2009, AND FILED THE SAME DAY.***