



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DISMISSED FOR FAILURE TO PROSECUTE: July 10, 2014

CBCA 2908

VET-TECH, LLC,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Clayton Hulsizer, Owner of Vet-Tech, LLC, West Grove, PA, appearing for Appellant.

Jennifer Hedge, Office of Regional Counsel, Department of Veterans Affairs, Pittsburgh, PA, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **STEEL**, and **KULLBERG**.

**STEEL**, Board Judge.

For the reasons below, the Board dismisses the above-captioned appeal for failure to prosecute.

Background

The above-captioned case was filed on July 23, 2012. On the eve of a scheduled mediation on July 29, 2013, the Board received a motion from counsel for appellant seeking to withdraw his appearance on appellant's behalf. Appellant, Vet-Tech, LLC, was told that it must locate other counsel, and enter their appearance, or appear by one of the company's

officers. When appellant failed to do so, on January 16, 2014, the Board issued an order to show cause why the case should not be dismissed for failure to prosecute. An attorney for the surety involved in the contract entered his appearance in the case on February 11, 2014. Because the entry of appearance was not on behalf of appellant but on behalf of its bonding company, however, the appearance was not accepted. That attorney was permitted to withdraw his appearance.

A new order to show cause why the case should not be dismissed was sent by facsimile to appellant on May 5, 2014, directing that on or before May 20, 2014, Vet-Tech must either secure the services of an attorney, notify the Board that an officer of the company would be representing Vet-Tech, or otherwise show cause why the appeal should not be dismissed. As of this date, no response to the order to show cause has been received from Vet-Tech. On July 1, 2014, the Board attempted to contact appellant by electronic mail at its address of record to make sure the order to show cause was received; while the request was not rejected by appellant's electronic mail server, appellant also failed to respond to the July 1 email message.

Board precedent indicates that when an appellant is unresponsive to an order requiring action by the appellant, dismissal for failure to prosecute is appropriate. *See Ryll International, LLC v. Department of Transportation*, CBCA 2069, 13 BCA ¶ 35,3311; *Cecelia Sutton v. General Services Administration*, CBCA 2810, 12-2 BCA ¶ 35,158. Since appellant has failed to respond to the second order to show cause, dismissal is warranted.

### Decision

The appeal is **DISMISSED FOR FAILURE TO PROSECUTE**.

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CANDIDA S. STEEL  
Board Judge

We concur:

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STEPHEN M. DANIELS  
Board Judge

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H. CHUCK KULLBERG  
Board Judge