

DAVID WINNETT  
(Appellant)

v.

HAGAR ENTERPRISES, INC.  
(Appellee)

and

MEMIC  
(Insurer)

### ORDER DISMISSING APPEAL

[¶1] The Appellant, David Winnett, seeks to appeal from an October 2, 2020, decision of the Workers' Compensation Board (*Elwin, ALJ*). He was represented by the Board's Advocate Division at the formal hearing level, but he is proceeding without counsel on appeal.

[¶2] Mr. Winnett submitted a Notice of Intent to Appeal by email on October 21, 2020.<sup>1</sup> He did not serve the Notice on the Appellee as required by Me. W.C.B. Rule, ch. 13, § 3(3).

[¶3] On October 22, 2020, the Appellate Division informed Mr. Winnett that in order to perfect his appeal, he needed to mail the original Notice to the Appellate Division. *See* Rule ch. 13, § 3(2). The Division also informed Mr. Winnett that he also needed to either file an Application for Waiver of Appellate Costs pursuant to Rule Ch. 13, § 4(1)(A), or file the Record on Appeal within 45 days. *See* Rule Ch. 13, § 4(1). Mr. Winnett did not file the requested documents.

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<sup>1</sup> The Division accommodated the Appellant by allowing him to submit an email of a photograph of the Notice of Intent to Appeal.

[¶4] On December 4, 2020, the Appellee filed a Motion to Dismiss the appeal, due to Mr. Winnett's failure to comply with applicable rules. The Appellee served a copy the Motion on Mr. Winnett by email.

[¶5] On March 2, 2021, the Division sent Mr. Winnett an email with the Motion to Dismiss, asking him to reply to the Motion by March 16, 2021. The Division also resent the email from October 2020 and reminded Mr. Winnett that he could still apply for a waiver of costs. Mr. Winnett did not respond.

[¶6] The Division sent Mr. Winnett a letter by certified mail, US mail, and email on March 29, 2021, giving him additional time—until April 12, 2021—to provide a response to the Motion to Dismiss.

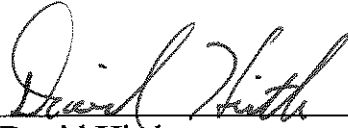
[¶7] On April 7, 2021, a Board claims resolution specialist contacted Mr. Winnett by phone and offered assistance with responding to the Motion to Dismiss and with the appeal, generally.

[¶8] To date, Mr. Winnett has not filed the original Notice of Intent to Appeal, an Application for Waiver of Costs, or the Record on Appeal. Nor has he filed a response to the Motion to Dismiss.

WHEREFORE, Appellee's Motion to Dismiss is GRANTED, and the appeal is DISMISSED. Rule, ch. 13, § 3(5).

SO ORDERED:

April 30, 2021

  
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David Hirtle  
Presiding Administrative Law Judge  
Workers Compensation Board  
Appellate Division

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Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Pamph. 2020).

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

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