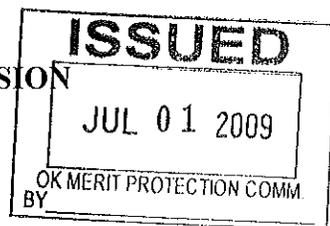


BEFORE THE OKLAHOMA MERIT PROTECTION COMMISSION
STATE OF OKLAHOMA



MISTY HURLEY,)
Appellant,)
)
v.)
)
OKLAHOMA STATE BUREAU OF)
INVESTIGATION,)
Appellee.)
)

Case No. MPC 09-109

ORDER OF DISMISSAL AND AWARD OF COSTS AND FEES

ON THIS DATE, THE ABOVE STYLED AND NUMBERED CAUSE came on before the undersigned Administrative Law Judge, Lydia Lee, in consideration of the Appellee's Motion to Dismiss, Motion for Costs, Motion for Attorney Fees and Motion for Sanctions Due to Appellant's Failure to Cooperate with Discovery. The Appellant, Misty Hurley, is represented by Mary Ann Karns, who entered her appearance in this case on June 15, 2009 (filed stamped June 22, 2009). The Appellee, Oklahoma State Bureau of Investigation, appears by and through counsel, Jimmy Bunn, Jr.

The Appellee filed its Motions on June 16, 2009. Appellee filed an Addendum to its Motions on June 23, 2009. Appellee states that on June 3, 2009, Appellee filed and served upon the Appellant discovery requests, including a Notice of Deposition, Requests to Admit, Requests for Production and Interrogatories. The deposition of the Appellant was scheduled for June 15, 2009. Appellant verbally requested a continuance of the deposition, however, Appellee declined due to the previous continuance and the impending discovery deadline. Appellant did not file an objection to the taking of her Deposition. The Appellant failed to appear at the deposition on June 15, 2009. The Appellant has also failed to provide responses or objections to the other discovery requests which were due June 13, 2009. Appellant has failed to file a response to the Appellee's Motions as of this date, and said response was due June 26, 2009. The Pre-Hearing Conference Order required responsive pleadings to be filed within 10 days.

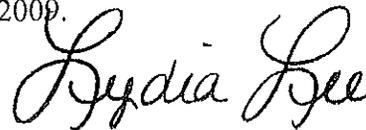
This appeal was filed initially in December, 2008. The Discovery deadlines were continued at the Appellant's request. The latest deadline to *complete* discovery was June

19, 2009 and that date has since passed without Appellant presenting herself for deposition or providing the necessary responses to the Appellee's Requests to Admit, Requests for Production and Interrogatories. The hearing date, which has been previously continued at Appellant's request, is set for July 15, 2009.

Pursuant to OAC 455:10-3-19 and OAC 455:10-13-11, the undersigned has the authority to assess sanctions and issue such orders as are just and appropriate, including dismissal of appeals and assessment of attorneys fees and costs, for failure to comply with time schedules, directives or orders and for failing to make or cooperate in discovery. Pursuant to OAC 455:10-3-13, an appeal may be dismissed if the appellant fails or refuses to appear for a scheduled meeting, such as this deposition. The Appellant has failed to show cause why the Motion should not be granted. Further, having failed to file a responsive pleading, the Appellant has failed to demonstrate that the amounts of attorney fees and costs requested by the Appellee are unreasonable or inappropriate. Therefore, having reviewed the Motion and Addendum, the undersigned finds that the Motions should be, and are, granted.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the appeal of Misty Hurley, MPC-09-109, be DISMISSED for failure to cooperate with Discovery. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Appellee is awarded its actual costs in the amount of \$156.00 and attorney fees in the amount of \$411.52, for a total amount of \$567.52.

IT IS SO ORDERED this 1st day of July, 2009.



Lydia Lee, OBA # 10374
Administrative Law Judge