

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**Joseph Anthony, Majestic Painting, Inc.,
and The Majestic Group, Inc.,**
Petitioners,

Nos. LB-22-471, LB-22-472, LB-22-473,
LB-22-474, LB-22-475

Dated: **JUN 06 2023**

v.

**Office of the Attorney General, Fair Labor
Division,**
Respondent.

ORDER OF DISMISSAL

In April 2023, the petitioners' motion to continue the evidentiary hearing was denied without prejudice. The hearing therefore remained calendared for May 15-17, 2023. The deadline for the parties to file exhibits and updated memoranda remained April 17, 2023.

The petitioners failed to file their prehearing submissions. An order dated May 1, 2023 cautioned them that failure to rectify this omission by May 5, 2023 would warrant dismissal of the appeals. The petitioners instead filed a renewed motion to continue.

An order dated May 11, 2023 explained that the requested continuance was not supported by good cause. The order nevertheless allowed the motion in part: it continued the hearing, but required the petitioners to file their overdue submissions within 10 days, stating: "[F]ailure to comply with this directive will result in prompt dismissal of the appeals."

The petitioners have filed nothing further. In all, they have missed three deadlines to file their prehearing papers. They have ignored two warnings that their refusal to fulfill their prehearing filing obligations would result in dismissal.

The foregoing history plainly discloses the petitioners' failure "to respond to notices or correspondence" and "to comply with orders of the Presiding Officer." 801 C.M.R.

§ 1.01(7)(g)(2). Such lapses warrant dismissal for failure to prosecute. *Id.* Indeed, the power to

dismiss appeals for failure to prosecute “is critical to the orderly and expeditious disposition of cases and the calendar as a whole.” *Ivy v. Boston Med. Ctr.*, 97 Mass. App. Ct. 1117 (2020) (unpublished memorandum opinion) (quoting *Bucchiere v. New England Tel. & Tel. Co.*, 396 Mass. 639, 641 (1986)). See also *Anderson v. Sport Lounge, Inc.*, 27 Mass. App. Ct. 1208, 1209 (1989) (quoting *State Realty Co. v. MacNeil Bros.*, 358 Mass. 374, 379 (1970)). Although adjudicative tribunals are dedicated to “giving parties their day in court,” they must refrain from “so blunting the rules that they may be ignored ‘with impunity.’” *Greenleaf v. Massachusetts Bay Transp. Auth.*, 22 Mass. App. Ct. 426, 429-30 (1986) (quoting *Kenney v. Rust*, 17 Mass. App. Ct. 699, 703 (1984)).

For the foregoing reasons, it is hereby ORDERED that these appeals are DISMISSED. Any appeal from the instant order must be brought in the superior court within thirty days.

Division of Administrative Law Appeals

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate