

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**Trinktisch, Suzanne Schalow,  
And Kathryn Baker,**  
Petitioners

v.

Docket No. LB-24-0101

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

**Appearance for Petitioner:**

Suzanne Schalow  
Kathryn Baker  
87 Leonard Street  
Belmont, MA 02478

**Appearance for Respondent:**

Drew Cahill, Esq.  
Office of the Attorney General, Fair Labor Division  
One Ashburton Place, Room 1813  
Boston, Massachusetts 02108

**Administrative Magistrate:**

Kenneth J. Forton

**DISMISSAL**

On February 14, 2024, the Office of the Attorney General, Fair Labor Division, cited Petitioners Trinktisch, Suzanne Schalow, and Kathryn L. Baker with failure to furnish true and accurate payroll records without specific intent with a civil penalty of \$10,000; failure to permit employees to earn and use sick time as required without specific intent with a civil penalty of \$15,000; employment of seven minors, under the

age of 16, outside designated hours with a civil penalty of \$7,400; employment of a minor, under the age of 16, for more than 48 hours in a week with a civil penalty of \$200; employment of a minor, age 16 or 17, for more than nine hours in a day with a civil penalty of \$700.00; and failure to obtain a valid work permit prior to employment of 56 minors with a penalty of \$11,200.

The citations informed the Petitioners that they were entitled to an adjudicatory hearing on the citations. The Petitioners timely requested an adjudicatory hearing before the Division of Administrative Law Appeals (DALA) to contest the Attorney General's citations. Petitioners provided 87 Leonard Street, Belmont, MA 02478 as their address. They provided no email address. On March 1, 2024, an Acknowledgement that the appeal was filed was sent to the parties at the address they provided.

On March 4, 2024, DALA ordered the Petitioners to pay the required filing fee of \$200 per citation or apply for a fee waiver. That order was sent to Petitioners at their 87 Leonard Street address. On April 9, 2024, DALA received Petitioners' affidavit of indigency and request for fee waiver; these documents listed the same 87 Leonard Street address. On April 10, 2024, DALA determined that Petitioners qualified for a waiver of the fees and mailed a notice of telephone pre-hearing conference to Petitioners to 87 Leonard Street.

On May 2, 2024, Respondent appeared for the scheduled pre-hearing conference. Petitioners failed to appear. Consequently, I ordered the Petitioners to show cause no later than May 31, 2024, why the appeal should not be dismissed for failure to appear at the pre-hearing conference. The order, like all other correspondence, was sent to 87 Leonard Street. Petitioners did not respond to the order.

The copy of the order to show cause was returned to DALA marked “return to sender.” This makes it unclear whether Petitioners received the order. However, it is Petitioners who have a duty to notify DALA of any change of address. *See Keenan v. Maybrook*, 40 Mass. App. Ct. 140, 146 (1986) (when plaintiff’s attorney failed to appear at a pre-trial conference because his address had changed and he claimed he had not received notice from the court thereby resulting in a default judgment against his client, Appeals Court held that counsel had a duty to notify the court of a change in his address; his failure to do so was not excusable neglect and did not provide a basis for vacating the default judgment). It is not up to DALA to search for a correct address for a litigant. *See Musi v. Berkman*, 2009 Mass. App. Div. 38 (Dist. Ct. 2009) (litigant had duty to notify court of correct address once his counsel had withdrawn; change of address should be a separate document with a caption that states its purpose; anything less would “impose an altogether unreasonable burden on the clerks of the courts.”).

Based on the foregoing, I conclude that the Petitioners’ failure to appear at the scheduled pre-hearing conference and failure to respond to the order to show cause indicate the Petitioners’ intention not to prosecute this action. Accordingly, pursuant to 801 CMR 1.01(7)(g)(2), this appeal is dismissed with prejudice.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Kenneth J. Forton*

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Kenneth J. Forton  
Administrative Magistrate

DATED: June 12, 2024