



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR FAILURE TO PROSECUTE: May 18, 2026

CBCA 8148

CARING HEARTS EMS, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Donald Anthony, Chief Executive Officer of Caring Hearts EMS, Inc., Jonesboro, GA
appearing for Appellant.

Kathleen Ramos, Office of General Counsel, Department of Veterans Affairs,
Arlington, TX, counsel for Respondent.

Before Board Judges **BEARDSLEY** (Chair), **GOODMAN**, and **SULLIVAN**.

GOODMAN, Board Judge.

Background

This appeal was filed in July 2024. Thereafter, appellant's counsel filed a complaint, and respondent filed a motion to dismiss the appeal. On December 9, 2024, the Board issued a decision granting the motion to dismiss in part. *Caring Hearts EMS, Inc. v. Department of Veterans Affairs*, CBCA 8148, 25-1 BCA ¶ 38,719 (2024). On June 26, 2025, appellant's counsel withdrew, and appellant did not retain new counsel. The Board issued various scheduling orders, and respondent propounded written discovery.

On March 26, 2026 the presiding judge held a status conference with appellant's representative and respondent's counsel because appellant had not responded to respondent's discovery requests. Appellant's representative stated that appellant was attempting to retain counsel before responding to discovery. The Board issued an order on that date suspending proceedings until April 10, 2026, to allow appellant time to retain counsel. If new counsel for appellant did not file a notice of appearance by April 10, 2026, the order directed appellant to file a status report by that date stating whether appellant would proceed without counsel or needed additional time to retain counsel. If appellant required additional time to retain counsel, the order directed appellant to request a reasonable amount of time to do so.

Appellant did not file a status report by April 10, 2026, as required. By order dated April 22, 2026, the Board directed appellant to file the overdue status report no later than May 1, 2026. Again, appellant did not file a status report. On May 6, 2026, the Board issued to appellant an order to show cause by no later than May 14, 2026, as to why this appeal should not be dismissed for failure to prosecute. The order to show cause and the two previous orders were sent to appellant's representative's email address registered in the Board's electronic docketing system. Appellant did not respond to the Board's order to show cause.

Discussion

The Board may dismiss an appeal for failure to prosecute either on motion of a party or after permitting a response to an order to show cause. Rule 12(b)(1), (4) (48 CFR 6101.12(b)(1), (4) (2025)); *see Brandon Staffing Solutions LLC v. Department of Veterans Affairs*, CBCA 7044, 22-1 BCA ¶ 38,050, at 184,765. The Board may also dismiss a case as a sanction for failure to comply with a direction or order of the Board. Rule 35(b)(6). “[T]his authority is reserved for situations ‘where parties have repeatedly failed to comply with the tribunal’s orders.’” *Elite Quality Services, LLC v. Department of Commerce*, CBCA 5050, 16-1 BCA ¶ 36,269, at 176,923 (quoting *Medtek, Inc. v. Department of Veterans Affairs*, CBCA 1544, 09-2 BCA ¶ 34,285, at 169,367).

Appellant has failed to comply with two Board orders requesting status reports and has failed to respond to the order to show cause. Sufficient grounds therefore exist to dismiss the appeal for failure to prosecute. Appellant's repeated “fail[ure] to comply with [a] direction or order of the Board” warrants the sanction of dismissal. Rule 35(b)(6); *see Patrick Considine v. Agency for International Development*, CBCA 8102, 25-1 BCA ¶ 38,907, at 189,389.

Decision

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

Allan H. Goodman

ALLAN H. GOODMAN

Board Judge

We concur:

Erica S. Beardsley

ERICA S. BEARDSLEY

Board Judge

Marian E. Sullivan

MARIAN E. SULLIVAN

Board Judge