

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
New Iraq Ahd Company) ASBCA No. 58800
)
Under Contract No. W91GFB-10-C-5005)

APPEARANCE FOR THE APPELLANT: Mr. Abbas Abed Mohsin
Owner

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
CPT Vera A. Strebel, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE STEMPLER
ON APPELLANT'S MOTION FOR RECONSIDERATION

New Iraq Ahd Company moves for reconsideration of our decision in *New Iraq Ahd Company*, ASBCA No. 58800, 14-1 BCA ¶ 35,479.¹ We dismissed the appeal without prejudice for lack of jurisdiction for failure to certify in accordance with the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 7101-7109. The government opposes the motion.

DECISION

The Board routinely corresponds with party representatives located in Iraq and Afghanistan by email due to the difficulties of communicating by mail in those countries. *Taj Al Rajaa Company*, ASBCA No. 58801, slip op. at 1 n.1 (26 March 2014). By administrative error, the Board's 18 December 2013 decision appellant seeks to have reconsidered was not sent to appellant. Upon receipt of appellant's 4 February 2014 email requesting the status of the appeal, the Board became aware of this error and sent appellant a copy of the decision by email of the same date, explaining the mistake.

Appellant emailed the Board on 7 February 2014, objecting to the decision and demanding reconsideration. The email did not contain any reasons appellant was alleging that should cause the Board to reconsider its decision. Board Rule 29 states:

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to

¹ Judge Grant who participated in the decision has since retired.

sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

48 C.F.R., Ch. 2, Appx. A, Pt. 2, Rule 29.

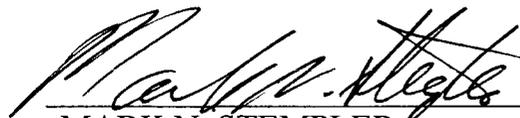
In response to appellant's 7 February 2014 email, the Board emailed a 10 February 2014 Order to appellant, explaining to appellant that to file a motion for reconsideration, Rule 29 requires that the motion explain what portions of the decision appellant believes to be incorrect and the reasons why.

On 27 February 2014, appellant emailed the Board, asking whether it should send a certified claim to this Board or to the contracting officer (CO). This was followed on 3 March 2014 with appellant's email to the Board attaching its certified claim. By email dated 7 March 2014, the Board forwarded the claim to government counsel and advised appellant that claims must be submitted to the CO and that CDA certifications must be signed. Appellant sent a claim to the CO by email dated 8 March 2014.

The record indicates that by email dated 20 March 2014, the CO sent to appellant an 18 March 2014 decision on its 8 March 2014 claim. On 27 March 2014, appellant emailed the Board stating that it was in discussions with the CO and that it would inform the Board when a final decision was made. The Board has not received any Notice of Appeal to date from appellant respecting the 18 March 2014 CO's decision.

Board Rule 29 requires that a proper motion for reconsideration must contain the grounds alleged for reconsideration. Appellant has not done this and its 30-day period to file a proper motion has long expired. The motion for reconsideration is denied as untimely.²

Dated: 29 April 2014



MARK N. STEMPLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

(Signature continued)

² In any event, it appears appellant is pursuing the claims process in accordance with our decision inasmuch as it has represented to the Board that it has filed a certified claim with the CO. It is up to appellant to determine whether to appeal the CO's 18 March 2014 decision.

I concur



Elizabeth A. Tunks

ELIZABETH A. TUNKS
Administrative Judge
Acting Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 58800, Appeal of New Iraq Ahd Company, rendered in conformance with the Board's Charter.

Dated:

JEFFREY D. GARDIN
Recorder, Armed Services
Board of Contract Appeals