

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Quality Trust Inc.) ASBCA No. 59983
)
Under Contract No. W912P6-15-C-0002)

APPEARANCE FOR THE APPELLANT: Mr. Lawrence M. Ruiz
President

APPEARANCES FOR THE GOVERNMENT: Thomas H. Gourlay, Jr., Esq.
Engineer Chief Trial Attorney
Kimberly J. Sabo, Esq.
Engineer District Counsel
U.S. Army Engineer District, Chicago

OPINION BY ADMINISTRATIVE JUDGE PROUTY
ON APPELLANT’S MOTION FOR RECONSIDERATION

Before the Board is appellant Quality Trust Inc.’s (Quality’s) timely motion for reconsideration of our earlier entry of summary judgment against its appeal of the contracting officer’s decision to terminate its contract for default. *Quality Trust Inc.*, ASBCA No. 59983, 16-1 BCA ¶ 36,368. We deny the motion.

A motion for reconsideration is not the place to present arguments previously made and rejected. “[W]here litigants have once battled for the court’s decision, they should neither be required, nor without good reason permitted, to battle for it again. Motions for reconsideration do not afford litigants the opportunity to take a ‘second bite at the apple’ or to advance arguments that properly should have been presented in an earlier proceeding.” *Dixon v. Shinseki*, 741 F.3d 1367, 1378 (Fed. Cir. 2014) (citations omitted); *see also Avant Assessment, LLC*, ASBCA No. 58867, 15-1 BCA ¶ 36,137 at 176,386.

Here, we earlier granted the government’s motion for summary judgment because Quality had failed to obtain contractually-required performance and payment bonds and, despite attempting to assign blame to multiple other actors, had presented no evidence excusing its own lack of performance. Quality’s motion for reconsideration appears to be a rehash of its previous, unsupported argument, that the government was somehow responsible for its failure to obtain the required bonds. And its argument on reconsideration remains equally unsupported. As discussed above, we will not disturb an earlier decision merely because, on reconsideration, the losing side presents the same argument as before, but with more intensity.

For the reasons stated herein, we deny Quality's motion for reconsideration of our denial of ASBCA No. 59983.

Dated: 29 June 2016



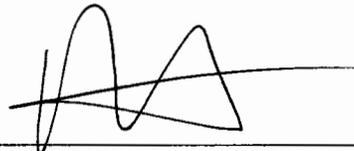
J. REID PROUTY
Administrative Judge
Armed Services Board
of Contract Appeals

I concur



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

I concur



RICHARD SHACKLEFORD
Administrative Judge
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. 59983, Appeal of Quality Trust Inc., rendered in conformance with the Board's Charter.

Dated:

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