

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of - )  
 )  
Safaa Al-Rawaby Company ) ASBCA No. 63146  
 )  
Under Contract No. H92277-21-C-0013 )

APPEARANCE FOR THE APPELLANT: Bayrak Abbas Fadel  
Owner

APPEARANCES FOR THE GOVERNMENT: Jeffrey P. Hildebrant, Esq.  
Deputy Chief Trial Attorney  
Lt Col Matthew Ramage-White, USAF  
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE THRASHER

Safaa Al-Rawaby Company (appellant) filed its notice of appeal via email received by the Board on December 28, 2021. The notice of appeal was submitted by Mr. Bayrak Abbas Fadel, who identified himself as appellant’s general manager. The Board docketed the appeal on January 12, 2022. On April 5, 2022, the Board dismissed the appeal due to appellant’s failure to respond to multiple orders directing appellant to show that it was represented by a person meeting the requirements of Board Rule 15(a).

On April 8, 2022, the Board received an email from Mr. Fadel, which stated that he would represent appellant without an attorney. This was the first communication received from Mr. Fadel since the December 28, 2021 notice of appeal. Thereafter, the Board notified the parties that we would treat Mr. Fadel’s email as a motion to reinstate the appeal, but would not address the motion until after the Rule 15(a) question was resolved. Mr. Fadel subsequently identified himself as appellant’s owner and chief executive officer (CEO). In response, the government states that it does not object to Mr. Fadel’s representation that he is appellant’s owner and CEO. The government also expresses its concern with appellant’s failure to respond to prior Board orders and requests that if the Board reinstates the appeal, we issue an order directing appellant to file its complaint. (Gov’t resp. at 1-2)

We have treated requests for reinstatement as motions under FED. R. CIV. P. 60(b), pursuant to which “we consider such factors as whether relief was sought within a reasonable time, whether there was good cause for failing to act, and to what extent the other party will be harmed if the appeal is reinstated.” *554 Bloomfield LLC*, ASBCA No. 58819, 17-1 BCA ¶ 36,625 at 178,353. Here, we note that appellant’s April 8, 2022 email to the Board was received only 3 days after the order of dismissal. We believe this

coupled with the fact that the government does not oppose appellant's request, makes reinstatement appropriate.

CONCLUSION

Appellant's motion to reinstate the appeal is granted. An order addressing further proceedings in this appeal will follow.

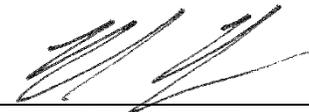
Dated: May 26, 2022

  
\_\_\_\_\_  
JOHN J. THRASHER  
Administrative Judge  
Chairman  
Armed Services Board  
of Contract Appeals

I concur

  
\_\_\_\_\_  
OWEN C. WILSON  
Administrative Judge  
Vice Chairman  
Armed Services Board  
of Contract Appeals

I concur

  
\_\_\_\_\_  
J. REID PROUTY  
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. 63146, Appeal of Safaa Al-Rawaby Company, rendered in conformance with the Board's Charter.

Dated: May 26, 2022

  
\_\_\_\_\_  
PAULLA K. GATES-LEWIS  
Recorder, Armed Services  
Board of Contract Appeals