

Department of Environmental Management
Administrative Adjudication Division
State of Rhode Island
Re: Roggero, Eric, J.
AAD No. 07-003/F&WA
Lobster Trap Allocation
MPURP000335
January, 2008

FINAL ORDER OF DISMISSAL

This matter came before Hearing Officer Mary F. McMahon on December 3, 2007 for prehearing conference and hearing. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife. Applicant Eric J. Roggero failed to appear or otherwise inform the Hearing Officer of his inability to appear at the prehearing conference and hearing.

On December 27, 2007 a Conditional Order of Dismissal was entered against the Applicant. Pursuant to the Order, Applicant had until and including January 3, 2008 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the prehearing conference and hearing. Applicant has not responded to the Conditional Order of Dismissal.

FINDINGS OF FACT:

A review of the AAD file reveals the following:

1. The Order and Notice of Administrative Hearing & Prehearing Conference issued to the parties on May 8, 2007 provided that: "If a party fails to appear at the hearing, the Hearing Officer will issue a seven (7) day Conditional Order of Dismissal/Default against the absent party which shall automatically become final unless the absent party demonstrates good cause for the failure to appear."
2. The prehearing conference and hearing were scheduled for December 3, 2007.
3. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife on December 3, 2007.
4. Applicant Eric J. Roggero failed to appear at the prehearing conference and hearing on December 3, 2007.
5. A Conditional Order of Dismissal was entered against the Applicant on December 27, 2007.
6. Pursuant to the Conditional Order, the Applicant had until and including January 3, 2008 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the prehearing conference and hearing.
7. As of the date of this Administrative Order, the Applicant has not responded to the Conditional Order of Dismissal.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, I conclude the following as a matter of law:

1. Applicant Eric J. Roggero has failed to show good cause why a Final Order of Dismissal should not be entered against him for his failure to appear at the prehearing conference and hearing.
 2. Applicant Eric J. Roggero is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.
- Wherefore, it is hereby

ORDERED

1. Applicant's request for hearing on the Lobster Trap Allocation is herewith DISMISSED
Entered as an Administrative Order this _____ day of January, 2008.

Mary F. McMahon
Hearing Officer

Entered as a Final Agency Order this _____ day of January, 2008.

W. Michael Sullivan, Ph. D.
Director

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Environmental Management pursuant to RI General Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms