

Department of Environmental Management
Administrative Adjudication Division
State of Rhode Island
RE: RILEY, STEVEN J.
AAD NO. 07-065/F&WA
LOBSTER TRAP ALLOCATION CFL 000279
June, 2007

FINAL ORDER OF DISMISSAL

This matter came before Hearing Officer Joseph F. Baffoni on May 16, 2007 for prehearing conference/hearing. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife. Applicant Steven J. Riley failed to appear at the prehearing conference/hearing scheduled for May 16, 2007.

On May 18, 2007, a Conditional Order of Dismissal was entered against the Applicant. Pursuant to the Order, Applicant had until and including May 29, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the prehearing conference/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 of Notice of Administrative Hearing and Prehearing Conference issued to the parties on March 23, 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 failure to appear."
2. The prehearing conference/hearing was scheduled for May 16, 2007.
3. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife on May 16, 2007.
4. Applicant Steven J. Riley failed to appear at the prehearing conference/hearing on May 16, 2007.
5. A Conditional Order of Dismissal was entered against the Applicant on May 18, 2007.
6. Pursuant to the Conditional Order, the Applicant had until and including May 29, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the prehearing conference/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 Steven J. Riley 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/hearing.
 2. Applicant Steven J. Riley 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 hereby DISMISSED.

Entered as an Administrative Order this _____ day of June, 2007 and herewith recommended to the Director for issuance as a Final Agency Order.

Entered as a Final Agency Order this _____ day of June, 2007.

Joseph F. Baffoni

Hearing Officer

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