

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
21 UNC 02847

<p>Ebi Joelin Petitioner,</p> <p>v.</p> <p>University of North Carolina Hospitals Respondent.</p>	<p>FINAL DECISION ORDER OF DISMISSAL</p>
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THIS MATTER is before the undersigned Administrative Law Judge on Respondent's Motion for Summary Judgment. A Request for Response to Motion was served on the Petitioner with an Order that the Petitioner respond. Petitioner timely filed a response. The Motion is ripe for disposition.

STANDARD OF REVIEW

1. Under 26 N.C.A.C. 03 .0101, the North Carolina Rules of Civil Procedure set forth in N.C.G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by N.C.G.S. 7A-34 apply in contested cases in the Office of Administrative Hearings ("OAH") unless another specific statute or OAH rule provides otherwise. The powers granted to Administrative Law Judges include the authority to enter summary judgment. N.C.G.S. 150B-33.
2. The standards for entry of summary judgment are well established. Summary judgment is properly entered if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to judgment as a matter of law." N.C.G.S. 1A-1, Rule 56(c). "[A]n issue is genuine if it is supported by substantial evidence, which is that amount of relevant evidence necessary to persuade a reasonable mind to accept a conclusion ... [A]n issue is material if the facts alleged would constitute a legal defense, or would affect the result of the action, or if its resolution would prevent the party against whom it is resolved from prevailing in the action." Liberty Mut. Ins. Co. v. Pennington, 356 N.C. 571, 579, 573 S.E.2d 118, 124 (2002).
3. The evidence on a motion for summary judgment must be viewed in the light most favorable to the non-moving party. Patmore v. Town of Chapel Hill, 233 N.C. App. 133, 136, 757 S.E.2d 302, 304, disc. review denied, 367 N.C. 519, 758 S.E.2d. 874 (2014). Motions for summary judgment must be denied if the opposing party submits materials

which cast doubt on the existence of a material fact. Kidd v. Early, 289 N.C. 343, 222 S.E.2d 392 (1976). In ruling on a motion for summary judgment the trial court does not resolve issues of fact, and when different material conclusions may be drawn from the evidence, summary judgment must be denied. Warren v. Rosso & Mastracho, Inc., 78 N.C. App. 163, 336 S.E.2d 699 (1985).

4. When a motion for summary judgment is made and supported as provided by Rule 56, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him. N.C.G.S. 1A-1, Rule 56.

SUMMARY OF UNCONTESTED MATERIAL FACTS

1. Findings of fact are neither necessary nor desirable when granting a motion for summary judgment, Hyde Ins. Agency, Inc. v. Dixie Leading Corp., 26 N.C. App. 138, 142, 215 S.E.2d 162, 165 (1975), and OAH decisions granting such motions need not include such findings. N.C.G.S. 150B-34(e). The Tribunal does not make findings of fact on motions for summary judgment; rather, it summarizes material facts and procedural history that are uncontested. Vizant Techs., LLC v. YRC Worldwide, Inc., 373 N.C. 549, 551, 838 S.E.2d 616, 617 (2020). The Tribunal summarizes the following undisputed facts in its legal analysis to provide context for its ruling. Hyde Ins. Agency, Inc., 26 N.C. App. at 142, 215 S.E.2d at 165.
2. On June 24, 2021, Petitioner Ebi Joelin (“Petitioner”) filed a Petition for a Contested Case challenging a purported debt to Respondent University of North Carolina Hospitals (“Respondent”). The Tribunal denied previous Motions from Respondent to dismiss this case.
3. Respondent filed a Motion for Summary Judgment on October 11, 2021. Petitioner responded on October 15, 2021.
4. Respondent’s Motion for Summary Judgment is supported by affidavit from one Kristy Hall, a Billing Services Supervisor for Respondent. Petitioner’s response is not supported by affidavit or declaration.
5. Pursuant to Rule .0112(b) of the Rules of the Office of Administrative Hearings, on or about September 15, 2021, Respondent's attorney served by mail Requests for Admissions (“Requests”), the original of which is attached to Respondent’s Motion for Summary Judgment as Exhibit “B.” The Requests, which consist of over 50 contentions, are summarized as addressing all material facts in a contested case of this kind.
6. Pursuant to Rule .0112(f) of the Rules of the Office of Administrative Hearings, Petitioner’s response to the Requests, barring an extension of time permitted by the Tribunal, was due within 15 days of Petitioner's receipt of the Requests. Thus a response would have been due on or about September 30, 2021.

7. Respondent's filings contend that Petitioner failed to respond to the Requests within the time permitted by Rule, and Petitioner's Response neither disputes this contention nor contends that Petitioner did not receive the Requests as contended by Respondent.
8. By failing to timely respond to the Requests, Petitioner has admitted the truth of each and every request, and thus all the matters set out therein are conclusively established. See Rule 36 of the North Carolina Rules of Civil Procedure, and Rule .0101 of the Rules of the Office of Administrative Hearings which applies the North Carolina Rules of Civil Procedure to contested cases in the Office of Administrative Hearings.

CONCLUSIONS OF LAW

1. Petitioner is a pro se litigant. That status, while noted, does not relieve Petitioner of the duties imposed by North Carolina laws, rules, and procedure. "[W]hile pro se litigants may be entitled to some latitude when dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no cause for extending this margin to straightforward procedural requirements that a layperson can comprehend as easily as a lawyer." Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991).
2. By failing to timely respond to the Request for Admissions, Petitioner has admitted the truth of each and every request, and thus all the matters set out therein are conclusively established. See Rule 36 of the North Carolina Rules of Civil Procedure, and Rule .0101 of the Rules of the Office of Administrative Hearings which applies the North Carolina Rules of Civil Procedure to contested cases in the Office of Administrative Hearings.
3. Further, Petitioner's filings are not supported by an affidavit or declaration. Respondent's filings are supported by an affidavit in proper form under Rule 56. "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him." N.C.G.S. 1A-1, Rule 56.
4. The Tribunal under these circumstances is obligated to conclude that there is no genuine issue of material fact and that Respondent has demonstrated its entitlement to judgment as a matter of law.

FINAL DECISION

The Motion is **ALLOWED**. This contested case is **DISMISSED WITH PREJUDICE**.

NOTICE OF APPEAL

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties as indicated by the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

IT IS SO ORDERED.

This the 20th day of October, 2021.

A handwritten signature in blue ink that reads "Michael C. Byrne". The signature is written in a cursive style and is positioned above a solid blue horizontal line.

Michael C. Byrne
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

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This the 20th day of October, 2021.



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