

STATE OF MICHIGAN
COURT OF APPEALS

FRATERNAL ORDER OF POLICE,

Petitioner-Appellant,

v

TOWNSHIP OF CHESTERFIELD,

Respondent-Appellee.

UNPUBLISHED

March 17, 2005

No. 251847

Michigan Tax Tribunal

LC No. 00-289340

Before: Murray, P.J., and Markey and O'Connell, JJ.

MEMORANDUM.

Petitioner appeals by leave granted from an order entered by the Michigan Tax Tribunal (MTT) dismissing the case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Petitioner filed a petition in the MTT's Small Claims Division seeking to challenge a property tax assessment. The MTT informed petitioner that the amount in controversy exceeded the jurisdictional limit of the Small Claims Division, so within twenty-one days petitioner was required to file both a motion to transfer the case to the Entire Tribunal and an Entire Tribunal petition. The MTT noted that a failure to comply with the stated requirements could result in dismissal of the appeal. Petitioner filed an Entire Tribunal petition but did not file a motion to transfer the case. The MTT sent petitioner a second notice requesting that it file a motion to transfer the matter to the Entire Tribunal.

Subsequently, the MTT entered an order defaulting petitioner for its failure to move to transfer the case to the Entire Tribunal. The MTT ordered petitioner to file the motion within fourteen days and again indicated that failure to do so would result in dismissal of the case. Petitioner did not file the motion, and the MTT dismissed the case. The MTT denied petitioner's motions to reinstate the case and for reconsideration.

In the absence of fraud, our review of a decision of the MTT is limited to determining whether the MTT erred as a matter of law or adopted an erroneous legal principle. *Skybolt Partnership v Flint*, 205 Mich App 597, 599-600; 517 NW2d 838 (1994). We accept the MTT's findings of fact as final if those findings are supported by competent, material, and substantial evidence. *Id.* We review the MTT's decision to dismiss a case for an abuse of discretion. *Professional Plaza, LLC v Detroit*, 250 Mich App 473, 475; 647 NW2d 529 (2002).

The MTT may dismiss a petition due to the petitioner's failure to comply with a Tribunal rule or order. *Id.*; *Lawrence v Dep't of Treasury*, 128 Mich App 741, 745; 341 NW2d 200 (1983). Petitioner consistently failed to comply with the MTT's requests and orders. From August 29, 2002, the date the MTT informed petitioner that it was required to file a motion to transfer the case to the Entire Tribunal, to March 21, 2003, the date the MTT dismissed the case, petitioner took no action to cure the defect. Moreover, it did not do so notwithstanding the fact that it retained counsel in the interim and that the MTT advised it on two occasions that failure to comply with the MTT's directives could result in dismissal of the case. Petitioner provided no reasonable explanation for its failure to comply with the MTT's requests and orders. Under the circumstances, petitioner's assertion that its failure to comply with the MTT's requests and orders did not warrant imposition of the harshest sanction is without merit. The MTT did not abuse its discretion by dismissing the case and denying petitioner's motion to reinstate the matter. *Lawrence, supra*; *Professional Plaza, supra*; 1996 AACCS, R 205.1247(4).

We affirm.

/s/ Christopher M. Murray

/s/ Jane E. Markey

I concur in result only.

/s/ Peter D. O'Connell