

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2007-3117

KELSEY L. HEBRON,

Petitioner,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

Before BRYSON, Circuit Judge, FRIEDMAN, Senior Circuit Judge, and PROST, Circuit Judge.

PER CURIAM.

ORDER

Kelsey L. Hebron submits a response and a supplemental response to this court's order directing him to show cause why his petition for review should not be dismissed as untimely filed.

Hebron sought review by the Merit Systems Protection Board of the Administrative Judge's decision affirming the decision to remove Hebron from a mail handler position. On November 17, 2006 the Board denied Hebron's petition for review and informed Hebron that its decision was final and that any petition for review must be received by this court within 60 calendar days of receipt of the Board's decision. The Board served its decision on Hebron via electronic mail on November 17, 2006. Pursuant to the Board's regulations, "Board documents served electronically on registered e-filers are deemed received on the date of electronic submission," i.e.,

November 17 in this case. The court received Hebron's petition for review on Wednesday, January 17, 2007, 61 days after Hebron received the Board's decision.

A petition for review must be received by the court within 60 days of receipt of the Board's final order. 5 U.S.C. § 7703(b)(1). To be timely filed, the petition must be received by this court on or before the date that the petition is due. Pinat v. Office of Personnel Management, 931 F.2d 1544, 1546 (Fed. Cir. 1991) (petition is filed when received by this court; court dismissed petition received nine days late). Because Hebron's petition was not timely received by this court, it must be dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) Hebron's petition for review is dismissed as untimely filed.
- (2) Each side shall bear its own costs.

FOR THE COURT

April 4, 2007

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Kelsey L. Hebron
Jeanne E. Davidson, Esq.

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