



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DISMISSED FOR LACK OF JURISDICTION: January 6, 2011

CBCA 2176

MATTRESS MAKERS, INC.,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Karla Kane of Kane Law PLLC, Pasco, WA, counsel for Appellant.

Kathleen K. Barksdale, Office of Regional Counsel, General Services Administration, Philadelphia, PA counsel for Respondent.

Before Board Judges **BORWICK**, **GOODMAN**, and **DRUMMOND**.

**BORWICK**, Board Judge.

We dismiss this case for lack of jurisdiction because it was filed more than ninety days after appellant received the contracting officer's decision which is the subject of this appeal.

Background

Respondent moves to dismiss this appeal because the appeal was filed more than ninety days after receipt of the contracting officer's decision. Appellant agrees with respondent's motion. Appellant acknowledges that it received the contracting officer's decision on June 9, 2010, and filed the appeal on October 5, 2010, 118 days later. The Contract Disputes Act provides:

Within ninety days from the date of receipt of a contracting officer's decision under section 605 of this title, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 607 [codified at 41 U.S.C. § 608] of this title.

41 U.S.C. § 606 (2006). The ninety day period for filing appeals at boards of contract appeals is jurisdictional and may not be waived. *Cosmic Construction Co. v. United States*, 697 F.2d 1389, 1390 (Fed. Cir. 1982); *Charles T. Owen v. Agency for International Development*, CBCA 694, 07-2 BCA ¶ 33,638, at 166,588. Consequently, this appeal must be dismissed.

Decision

This appeal is **DISMISSED FOR LACK OF JURISDICTION.**

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ANTHONY S. BORWICK  
Board Judge

We concur:

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ALLAN H. GOODMAN  
Board Judge

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JEROME M. DRUMMOND  
Board Judge