

THE CLARK CONSTRUCTION
GROUP, INC.

CONTRACT NO. V101BC-0036

VABCA-5108

VA MEDICAL CENTER
WEST PALM BEACH, FLORIDA

Axel Bolvig, III, Esq., Bradley, Arant, Rose & White, Birmingham, Alabama, for the Appellant.

Paul A. Embroski, Esq., Trial Attorney; *Charlma Jones, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER OF DISMISSAL

1. On November 27, 1996, the Board ordered Appellant to show cause why this appeal should not be dismissed for lack of jurisdiction and directed Appellant to respond to the ORDER TO SHOW CAUSE by December 20, 1996. Appellant has not responded.
2. This appeal was docketed on October 7, 1996 as an appeal from the deemed denial of Appellant's claim resulting from the Contracting Officer's failure to issue a final decision. Subsequently, the Board was informed that the Contracting Officer had no record of receiving the claim from which the appeal was taken. Appellant, by letter dated November 17, 1996, informed the Board that it had submitted the claim for the Contracting Officer's final decision on October 29, 1996 and requested the Board to either dismiss the appeal without prejudice or to convert the notice of appeal to a petition and order the Contracting Officer to issue a final decision. The ORDER TO SHOW CAUSE was issued following the receipt of this letter.
3. It is clear, based on the lack of evidence of the Contracting Officer's receipt of the claim and Appellant's acknowledgment that a claim had not been submitted by its October 29, 1996 submittal of the claim to the Contracting Officer, that, when this appeal was filed, a claim had not been submitted to the Contracting Officer. Since a proper claim is essential to the Board's jurisdiction, the Board is without jurisdiction over this appeal. Accordingly, the Appeal of Clark Construction Group, VABCA No. 5108 under Contract No. V101BC-0036 is **DISMISSED FOR LACK OF JURISDICTION** pursuant to Rule 5.

IT IS SO ORDERED

DATE: **January 10, 1997**

RICHARD W. KREMPASKY
Administrative Judge
Panel Chairman

We Concur:

MORRIS PULLARA, JR.
Administrative Judge

GUY H. MCMICHAEL III
Chief Administrative Judge