

AIRCON COMPANY

CONTRACT NO. V542C-462

VABCA-5443

VA MEDICAL CENTER
COATESVILLE, PENNSYLVANIA

James J. Hanning, Jr., Esq., Bala Cynwyd, Pennsylvania, for the Appellant.

Jerome T. Dempsey, Esq., Trial Attorney, Philadelphia, Pennsylvania; *Patrick J. LaMoure, Esq.*, Trial Attorney; and *Charlma O. Jones, Esq.*, Deputy Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER OF DISMISSAL

1. On October 7, 1997, the Board issued a Notice of Docketing, directing the Appellant to file its Complaint by no later than November 10, 1997.
2. Appellant's Counsel filed three Requests for Extension Of Time To File Complaint, indicating that Appellant was in the process of obtaining "specialized counsel" to represent it in this appeal. Appellant, through its Counsel, was granted until January 12, 1998 to respond to the Board's request to submit its Complaint.
3. As of January 16, 1998, no response had been received from the Appellant causing the Board to issue an Order to Show Cause as to why this appeal should not be dismissed for failure to prosecute. The Order instructed Appellant through its Counsel to respond by February 17, 1998. Appellant's Counsel received the Board's certified Order on January 20, 1998.
4. As of the close of business, February 23, 1998, the Appellant had not contacted the Board, either by mail or by telephone, in response to the Board's Order to Show Cause. We interpret this lack of response as Appellant's intention not to continue with this appeal. Accordingly, VABCA-5443, the appeal of Aircon Company, is dismissed pursuant to Board Rule 31 for failure to prosecute.

It Is So Ordered

Date: **February 24, 1998**

Guy H. McMichael III
Chief Administrative Judge
Panel Chair

We concur:

Morris Pullara, Jr.
Administrative Judge

William E. Thomas, Jr.
Administrative Judge