



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0057

Elena Jenkins

CLAIMANT

v.

Amanda Smith

RESPONDENT

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

PLEASE READ CAREFULLY

Elena Jenkins (Jenkins), the claimant in this proceeding, submitted an application to the Copyright Office for a Group Registration of Unpublished Photographs (GRUPH) on February 10, 2023, and submitted the required fee by credit card. Later that day, Jenkins filed this claim with the Copyright Claims Board (Board), alleging infringement of the works in the pending application for registration. On March 23, 2023, the Board found that the infringement claim complied with its statutory and regulatory requirements and directed Jenkins to proceed with service. 17 U.S.C. § 1506(f)(1)(A); 37 C.F.R. § 224.1(c)(1). The Board may hear an infringement claim when the allegedly infringed works have been registered by the Copyright Office or are subject to a pending application for registration. 17 U.S.C. § 1505(a); 37 C.F.R. § 221.1(a).

Jenkins has withdrawn the fee to register the allegedly infringed works and the Copyright Office has closed the file on Jenkins' application. Copyright Office records indicate that on February 10, 2023, a registration specialist emailed Jenkins, explaining that the GRUPH application did not include the required spreadsheet listing the title and file name of each photograph. See Section 1114.4 of [Chapter 1100](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*, [Circular 42: Group Registration of Photographs](#), and the [GRUPH page](#). On March 2, 2023, the specialist called Jenkins and left a voice message stating that the Office could not proceed with the application without a response to the February 10, 2023 email. The application file has no record that Jenkins responded to the email or voice message. Instead, Jenkins initiated a payment dispute with their credit card company over the application fee and received a refund on March 8, 2023. The Copyright Office closed the file on the application on April 19, 2023.

In order to assert an infringement claim before the Board, the claimant must provide the Copyright Office a completed application, filing fee, and deposit. 17 U.S.C. § 1505(a)(1); 37 C.F.R. § 221.1(a). Although Jenkins initially tendered the filing fee to the Copyright Office, Jenkins' subsequent actions resulted in the return of the filing fee, so the claim does not meet the requirement set forth in section 1505(a)(1). Therefore, the Board dismisses this proceeding without prejudice and closes case 23-CCB-0057. Dismissal without prejudice means the claim can be filed again in the future, after submitting a proper application or obtaining registration, provided there is no agreement with the respondent to the contrary.

In light of the dismissal and closure of this proceeding, the claimant should not proceed with service.

Date: April 21, 2023

Copyright Claims Board