

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

Trissie Watson,

Plaintiff,

v.

Case No. 19-2168-JWL

Avery's Village, LLC,

Defendant.

MEMORANDUM & ORDER

This matter is presently before the court on defendant's motion to dismiss Count II of plaintiff's complaint (doc. 23). For the reasons set forth below, the motion is granted.

On August 30, 2019, defendant filed a motion to dismiss Count II of plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff did not file a response to defendant's motion within the time period provided in Local Rule 6.1(e)(2). Thus, the court could have considered and decided defendant's motion as an uncontested motion and could have granted the motion without further notice to plaintiff. *See* D. Kan. Rule 7.4(b). Nonetheless, in an abundance of caution, the court issued an order directing plaintiff to show good cause in writing to the court, on or before September 30, 2019, why she failed to respond to the motion to dismiss in a timely fashion. The court further directed plaintiff to respond to the motion to dismiss on or before September 30, 2019. As of the date of this order, plaintiff has not filed a response to the show cause order and has not filed a response to defendant's motion to dismiss Count II of the complaint.

The court concludes that dismissal of Count II of plaintiff's complaint is warranted based on the fact that that plaintiff has not responded to the motion or the court's show cause order despite having ample opportunity to do so. *See* D. Kan. Rule 7.4(b).

IT IS THEREFORE ORDERED BY THE COURT THAT defendant's motion to dismiss Count II of plaintiff's complaint (doc. 23) is **granted**.

IT IS SO ORDERED.

Dated this 4th day of October, 2019, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge