

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TINA M. CARSON,

Appellant,

v.

Case No. 22-1024-JWB

AJAX MORTGAGE LOAN TRUST 2018-F,
MORTGAGE-BACKED SECURITIES, SERIES, 2018-F,
BY U.S. NATIONAL BANK ASSOCIATION,

Appellee.

IN RE:

TINA M. CARSON, *a/k/a Tina Carson, d/b/a Breath of Life*,

Debtor.

MEMORANDUM AND ORDER

The court previously directed Appellant Tina M. Carson to show cause by April 20, 2022, why this bankruptcy appeal should not be dismissed for lack of jurisdiction. (Doc. 5.) On April 21, 2022, Appellant filed a motion asking for an additional thirty days to respond to the show cause order, asserting that she then had an attorney reviewing the order. (Doc. 6 at 1.) Thirty additional days have passed and Appellant has still not responded to the show cause order. Appellee has filed an objection to the motion and a response arguing the appeal should be dismissed as moot. (Docs. 7, 8). For the reasons stated herein, the court finds this action should be dismissed for lack of jurisdiction.

As noted by the court in its prior order, Appellant was the debtor in a Chapter 13 bankruptcy proceeding. She filed a notice of appeal from a bankruptcy court order granting Appellee relief from the automatic stay of 11 U.S.C. § 362 and allowing Appellee to seek foreclosure of real

property owned by Appellant. Appellant claims the bankruptcy court lacked authority to grant relief from the stay. After the appeal was filed, however, the bankruptcy court dismissed the underlying bankruptcy due to Appellant's failure to make plan payments. (Doc. 4.) The dismissal of the bankruptcy eliminates the automatic stay altogether and renders moot any claim that the bankruptcy court did not have authority to grant Appellee relief from the stay. *See In re Duwaik*, 730 F. App'x 715, 716 (10th Cir. 2018) (*citing In re Ames*, 973 F.2d 849, 852 (10th Cir. 1992) (“[B]ecause the bankruptcy court properly dismissed debtors’ bankruptcy action, that court's order granting the Bank relief from the automatic stay is moot.”) Mootness deprives this court of subject matter jurisdiction to hear the appeal and requires dismissal of the action. *Id.*

Conclusion

The instant appeal is hereby DISMISSED for lack of jurisdiction. IT IS SO ORDERED
this 31st day of May, 2022.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE