

FINAL DETERMINATION

DATE ISSUED AND MAILED: October 27, 2020

IN RE: *Kyle Burton v. Pennsylvania Department of Agriculture*, OOR Dkt. AP 2020-2168

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal states that the Request was submitted on October 26, 2020 and does not indicate that the Department issued a response.¹ The Department has five (5) business days upon receipt, or until November 2, 2020, to respond to the Request. 65 P.S. § 67.901. The appeal was filed on October 26, 2020. The Requester is not prohibited from filing a new appeal of any denial or deemed denial stemming from the Request, pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the Department is not required to take any further action. Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review in Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.²

Issued by:

/s/ Kyle Applegate

Appeals Officer
Kyle Applegate, Esq.

Sent to: Requester, Agency

¹ It is unclear if a request for records was ever submitted to the Department. Under the Right-to-Know Law, requests must be directed to an agency’s open records officer. 65 P.S. § 67.703. Agency open records officers can be found at <https://www.openrecords.pa.gov/RTKL/AOROSearch.cfm>.

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).