

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

APPLIED UNDERWRITERS, INC.,

Plaintiff,

vs.

TOP'S PERSONNEL, INC.,

Defendant.

8:15-CV-90

MEMORANDUM AND ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation (filing 34) recommending that the Court deny the defendant's motion to dismiss (filing 27).

Neither party has objected to the Magistrate Judge's recommendation. Title 28 U.S.C. § 636(b)(1) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. NECivR 72.2(f). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); see also *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

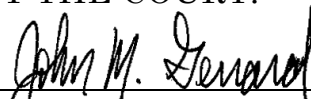
Accordingly, the Court will adopt the Magistrate Judge's recommendation that the defendant's motion to dismiss be denied.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (filing 34) are adopted.
2. The defendant's motion to dismiss (filing 27) is denied.
3. This matter is referred to the Magistrate Judge for case progression.

Dated this 16th day of June, 2016.

BY THE COURT:

  
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John M. Gerrard

United States District Judge