

IN THE DISTRICT COURT OF BOYD COUNTY, NEBRASKA

**LEANN M. LEE, now known as LEANN M.
HISEROTE,**

Petitioner,

vs.

JEFFREY L. LEE,

Respondent.

Case No. 4368

**ORDER DENYING
APPLICATION**

DATE OF HEARING: October 15, 1999.

APPEARANCES:

For petitioner: no appearance.

For respondent: no appearance.

SUBJECT OF HEARING: respondent's application for modification of decree.

FINDINGS: The court finds:

1. The respondent filed a pro se application for modification of decree. The petitioner entered a voluntary appearance and thereafter filed an answer denying paragraphs 7 and 8 of the application.

2. Following the filing of the answer, the court set the matter for trial on September 10. Neither party appeared in person, however the respondent's mother appeared and the court continued the matter to allow full opportunity for proper representation of the respondent at trial.

3. The matter again came on for trial. Neither party appeared in person or by counsel. The respondent, in failing to appear in person or by counsel, failed to meet his burden of production of going forward with evidence. The application must be dismissed. However, because the dismissal flows directly from the respondent's failure to appear and go forward with evidence, the dismissal should be without prejudice. Of course, every installment of child support accruing prior to the filing date of a timely considered application constitutes another installment which the court will hereafter lack jurisdiction to modify.

ORDER: The application is dismissed for lack of prosecution at respondent's cost. No complete record is required.

Dated: October 15, 1999.

If checked, the Court Clerk shall:

: Mail a copy of this order to all counsel of record and to any pro se parties.

Done on _____, 19____ by _____.

9 Enter judgment on the judgment record.

Done on _____, 19____ by _____.

9 Mail postcard/notice required by § 25-1301.01 within 3 days.

Done on _____, 19____ by _____.

9 (Trial docket entry dictated in open court.)

Mailed to:

BY THE COURT:

William B. Cassel
District Judge