



Issue Date: 17 January 2014

In the Matter of
RUSSELL THOMAS
Complainant

v.

Case Number **2013 SDW 00002**

CITY OF ROCK ISLAND
Respondent

ORDER OF DISMISSAL

This case under the Safe Drinking Water Act (SDWA), 42 USC 300j-9, Public Law: P.L. 93-523, §2(a), Dec. 16, 1974, 88 Stat. 1691, 29 C.F.R. Part 24 (2013), was continued from December. This case is currently set for hearing April 9, 2014 in St Louis. On December 16, I entered an Order to Show Cause why the claim should not be dismissed.

As the Complainant is pro se, without counsel, I provided him an opportunity to obtain advice. I stated: Failure to respond will be taken as a request to withdraw. He was given to January 9, 2014.

On December 8, 2013, Complainant sent the following:

Dear Honorable Judge Solomon,

I am requesting a motion to dismiss the above mentioned case scheduled before you on Wednesday, April 9, 2014 at 9am for the following reasons:

- 1) I'm unable to obtain a lawyer that will take my case on a contingency fee.
- 2) I'm unable to afford to pay the retainer needed to hire my own lawyer.

I accept that this is a request to withdraw without prejudice under 29 CFR §24.111.

Accordingly, the claim is **DISMISSED WITHOUT PREJUDICE**.

DANIEL F. SOLOMON
ADMINISTRATIVE LAW JUDGE

NOTICE OF APPEAL RIGHTS: This Decision and Order will become the final order of the Secretary of Labor unless a written petition for review is filed with the Administrative Review Board ("the Board") within 10 business days of the date of this decision. The petition for review must specifically identify the

findings, conclusions or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties. The date of the postmark, facsimile transmittal, or e-mail communication will be considered to be the date of filing. If the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt.

The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Ave., NW., Washington, DC 20210. In addition to filing your Petition for Review with the Board at the foregoing address, an electronic copy of the Petition may be filed by e-mail with the Board, to the attention of the Clerk of the Board, at the following e-mail address: ARB-Correspondence@dol.gov.

At the same time that you file your petition with the Board, you must serve a copy of the petition on (1) all parties, (2) the Chief Administrative Law Judge, U.S. Dept. of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001, (3) the Assistant Secretary, Occupational Safety and Health Administration, and (4) the Associate Solicitor, Division of Fair Labor Standards. Addresses for the parties, the Assistant Secretary for OSHA, and the Associate Solicitor are found on the service sheet accompanying this Decision and Order.

You must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board: (1) an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include: (1) an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies, unless the responding party expressly stipulates in writing to the adequacy of the appendix submitted by the petitioning party.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board.

If a timely petition for review is not filed, or the Board denies review, this Decision and Order will become the final order of the Secretary of Labor. See 29 C.F.R. §§ 24.109(e) and 24.110.