



Issue Date: 25 June 2020

CASE NO.: 2019-STA-00073

In the Matter of:

SUSAN ABBOTT,
Complainant,

v.

DTW TRANSPORT, LLC and
TAMMY WERNER,
Respondents.

ORDER DISMISSING COMPLAINT

This matter arises under the employee-protection provisions of the Surface Transportation Assistance Act of 1982, U.S. Code, Title 49, § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 ("STAA"). A hearing was scheduled to commence on April 29, 2020 in Grand Rapids, Michigan; however, the hearing was suspended by operation of the order of the Chief Administrative Law Judge dated March 19, 2020.

On March 3, 2020, I issued an order granting the motion of counsel for Complainant Susan Abbott to withdraw, and provided Complainant with certain information regarding her self-represented status. I further directed Complainant to inform me, not later than March 24, 2020, whether she intended to obtain new counsel or to proceed as a self-represented litigant. The Chief Judge's order of March 19, as amended by his order of April 16, tolled that deadline until June 2, 2020. Likewise, the Chief Judge's orders operated to suspend the deadline for Ms. Abbott to respond to Employer's motion to dismiss, filed on March 24, 2020, to June 15, 2020. On May 13, 2020, I issued an order advising Ms. Abbott of the new deadlines, and cautioned her that failure to respond could lead to sanctions up to and including dismissal of her complaint. Ms. Abbott has not responded to my orders.

In sum, Ms. Abbott did not comply with her discovery obligations, did not advise me whether she had obtained new counsel or was proceeding as a self-represented litigant, and did not respond to Employer's motion to dismiss. Her counsel's motion to withdraw was based on her failure to respond to counsel's attempts to communicate with her. Her complaint will be dismissed because of her failure to comply with her obligations as a party, and for failure to comply with my

orders as outlined above. In addition, and as a separate basis for dismissal, it is clear from her failures that Ms. Abbott has decided not to continue prosecuting her complaint.

Accordingly, IT IS ORDERED that the complaint filed in this matter is DISMISSED.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge

PCJ/ksw
Newport News, Virginia

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within fourteen (14) days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; but if you file it in person, by hand-delivery or other means, it is filed

when the Board receives it. *See* 29 C.F.R. § 1978.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1978.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1978.110(a).

If filing paper copies, 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 an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file 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. If you e-File your petition and opening brief, only one copy need be uploaded.

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 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 may include 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. If you e-File your responsive brief, only one copy need be uploaded.

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 you e-File your reply brief, only one copy need be uploaded.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1978.109(e) and 1978.110(b). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 1978.110(b).