



Issue Date: 14 March 2022

CASE NO.: 2020-STA-00096

In the Matter of:

HERMAN FLORES AND ANITA KNIGHT,
Complainants,

v.

SMILEY TRUCKING, LLC,
Respondent.

ORDER DISMISSING CASE

This matter came before the undersigned for hearing on March 11, 2022, at 9:00 a.m. in Tucson, Arizona. Neither party appeared. Previously, the undersigned conducted a pre-hearing conference in this matter. Although Respondent appeared at the pre-hearing conference, Complainants failed to appear. Complainants also failed to file any exhibit list, witness list, or pre-hearing statements as required by the undersigned's Pre-Hearing Order. The undersigned then entered an Order directing Complainants to appear and show cause at the March 11, 2022, hearing why the undersigned should not dismiss this matter for failure to appear at the pre-hearing conference. (Order Directing Complainants' Show Cause, Mar. 4, 2022.) Specifically, the undersigned's Order provided that:

Pursuant to 29 C.F.R. § 18.21(c), when a party fails to appear at a conference, the administrative law judge may, after providing notice and an opportunity to be heard, dismiss the proceedings if the party fails to establish good cause for the party's failure to appear. Accordingly, the undersigned **DIRECTS** Complainants to appear in person at the previously scheduled hearing time (9:00 a.m. on March 11, 2022) and location in Tucson, Arizona and **SHOW CAUSE** why the undersigned should not dismiss this matter for the failure to appear at the pre-hearing conference. If Complainants do not appear on March 11, 2022, the undersigned will dismiss this matter. Complainants should also be prepared to go forward with the hearing on March 11, 2022, if they demonstrate good cause for their failure to appear.

(Id.)

On March 11, 2022, at 9:20 a.m., the undersigned went on the record and called this matter for hearing. No party was in the courtroom even though the matter was scheduled to begin at 9:00 a.m. At no point did Complainants appear.

The undersigned went on the record and made findings on the record that Complainants failed to appear previously at the pre-hearing conference and failed to appear a second time at the hearing and show cause as required by the undersigned's March 4, 2022, Order. The undersigned then dismissed the case on the record at the hearing pursuant to 29 C.F.R. § 18.21(c) based on the Complainants prior failure to appear and subsequent failure to demonstrate good cause for that failure after being provided an opportunity to be heard and demonstrate good cause. By failing to appear a second time, Complainants failed to demonstrate good cause. Complainants also demonstrated that they have no intention of pursuing this matter by failing to appear at the pre-hearing conference, failing to comply with the pre-hearing Order and failing to appear at the March 11, 2022, hearing. Consistent with the undersigned's more detailed oral ruling on the record during the March 11, 2022, hearing, the undersigned enters this written Order codifying the oral ruling and **DISMISS** this matter pursuant to 29 C.F.R. § 18.21(c) for failure to appear at the pre-hearing conference and failure to show cause at the March 11, 2022, hearing as required by the March 4, 2022, Order.

SO ORDERED.

STEWART F. ALFORD
Administrative Law Judge