

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Newport News, VA

Issue Date: 31 December 2023

Case No.: 2023-STA-00082

In the Matter of:

GEORGE GARRIS,
Complainant,

v.

CONCRETE SUPPLY COMPANY,
Respondent.

ORDER DISMISSING COMPLAINT FOR LACK OF PROSECUTION

This case arises under the employee protection provisions of the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (STAA). On November 21, 2022, George Garris (Complainant) filed a complaint with the United States Department of Labor, Occupational Safety and Health Administration (OSHA), alleging Concrete Supply Company (Respondent) terminated his employment in violation of the STAA. On July 28, 2023, OSHA issued a Findings Letter. OSHA found no reasonable cause to believe Respondent violated the STAA. On August 28, 2023, Complainant filed his objection to OSHA's Findings Letter and request for hearing before the Office of Administrative Law Judges (OALJ). The case was docketed with the OALJ on the same day.

On October 11, 2023, Claimant's counsel, Alexander C. Kelly, filed a motion to withdraw as counsel. Mr. Kelly advised he had not been able to contact Claimant since July 3, 2023, and he submitted the objection to the Findings Letter in order to preserve Complainant's rights under the STAA.

On November 8, 2023, I issued a Notice of Assignment; Order Granting Motion to Withdraw as Counsel; Notice to Pro Se Complainant; Scheduling Order; and Order Staying Discovery (Order). In relevant part, I granted Mr. Kelly's motion to withdraw as counsel, and ordered Complainant to contact this tribunal, no later than December 8, 2023, advising whether or not he wished to proceed with his complaint against Respondent. The Order was sent to Complainant via email and the United Parcel Service (UPS), using the email and home addresses provided on his complaint filed with OSHA. UPS notified this office it was unable to deliver the Order because Complainant had moved. An attempt was then made to send the Order via the U.S. Postal Service, in the event that a forwarding address was available. No response was received. Nevertheless, my staff confirmed the email was successfully delivered to Complainant's email address. Additionally, my staff attempted to call Complainant at the phone number provided on his complaint filed with OSHA, to no avail. Complainant has been given ample opportunity to pursue his complaint. Complainant failed to maintain contact with his attorney or to timely respond this tribunal's orders.

Accordingly, IT IS ORDERED that the above-captioned matter is DISMISSED WITH PREJUDICE for lack of prosecution.

SO ORDERED.

PAMELA A. KULTGEN
Administrative Law Judge

PAK/PML/jcb
Newport News, Virginia