

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 20 July 2023

OALJ NO.: 2023-STA-00046

In the Matter of:

LANA SMITH,
Complainant,

v.

FIRST STUDENT INC.,
Respondent

ORDER OF DISMISSAL AND
STAYING EFFECT OF ORDER FOR TEN DAYS

This proceeding arises from a complaint of discrimination filed under employee protection provisions of Section 405 of the Surface Transportation Assistance Act (“STAA”), as amended, 49 U.S.C.A. § 31105, and the procedural regulations found at 29 C.F.R. Part 1978.114.

On June 20 and June 27, 2023, I held conference calls with the parties, and in accordance with our discussions, on June 28, 2023, I issued an Order Requiring Further Action to Avoid Dismissal of This Matter with Prejudice. In my Order, I set a deadline of July 14, 2023, for Ms. Smith to submit a file-stamped copy of her complaint filed in United States District Court, and indicated that upon receipt of the complaint, I would dismiss this matter with prejudice based on removal to U.S. District Court. I also cautioned Ms. Smith that if she did not file a copy of her federal complaint, or any other filing, either requesting an extension of time or some other specific relief, by the July 14, 2023, deadline, I would dismiss this case with prejudice for lack of prosecution without further hearing.

Ms. Smith did not file a copy of her federal complaint, or any other filing, by the July 14, 2023, deadline. Accordingly, this matter is dismissed for lack of prosecution pursuant to 29 C.F.R.

§§ 18.21(c), 18.12(b)(7). *See also* 29 C.F.R. § 1978.115. Because I am cognizant of the fact that Ms. Smith is proceeding as a self-represented litigant in this matter, the effect of this Order of Dismissal is stayed for ten days, to allow Ms. Smith a final opportunity to either file a copy of her file-stamped federal complaint, establishing proper removal pursuant to 29 C.F.R. § 1978, or alternatively, any filing establishing good cause for her failure to respond to my June 28, 2023, Order.

Based on the foregoing, it is hereby **ORDERED** that:

- 1) Ms. Smith's STAA complaint is **DISMISSED WITH PREJUDICE** for a failure to prosecute. *See* 29 C.F.R. §§ 18.21(c), 18.12(b)(7);
- 2) The effect of this Order of Dismissal will be stayed for a period of ten days following the issuance of the Order, to allow Ms. Smith a final opportunity to either file a copy of her federal complaint pursuant to 29 C.F.R. § 1978.114 or submit any other filing establishing good cause for her failure to respond to my June 28, 2023, Order; and
- 3) If there is no further response from Ms. Smith within ten days of this Order, the stay will be automatically dissolved without further order.

SO ORDERED.

JONATHAN C. CALIANOS
Administrative Law Judge

Boston, Massachusetts