



Issue Date: 24 May 2017

CASE NO.: 2012-TAE-00006

In the Matter of:

**JOHN PEROULIS & SONS SHEEP, INC.,
et al., Respondents**

Order on Remand

This matter arises under the H2-A provisions of the Immigration and Nationality Act, 8 U.S.C. § 1188, *et seq.*, as amended by the Immigration Reform and Control Act of 1986, (“the Act”), and the implementing regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501. By written notice issued 12 Oct 10, the Wage and Hour Division (WHD) of the U.S. Department of Labor’s Employment Standards Division found that Respondents failed to comply with Section 218 of the Act and its applicable regulations, directed the payment of back wages, and assessed civil money penalties (CMPs).¹

WHD moved for summary decision and I granted it on the issue of requisite notice. I found that rendered moot any questions about good cause for termination and made Respondents liable for the minimum contract guarantee and inbound and outbound costs. I then held the issuance of a final decision in abeyance pending the outcome of the remaining housing violation litigation and further discussions about the parties’ dispute over the applicability of any civil money penalties.

WHD then moved for the issuance of a final decision, noting that it would dismiss that housing violation allegation upon the issuance of an order directing Respondents to pay a total of \$9,216.51 as follows:

¾ Guaranteed Pay	\$4,362.60	(and \$1,000.00 CMP)
Inbound Transport	\$741.56	(and \$1,000.00 CMP)
Outbound Transport	\$1,112.35	(and \$1,000.00 CMP)

Respondents did not object to the motion, as long as they retained all appellate rights. I granted the motion and issued the order.

¹ There was a companion complaint relating to working conditions. 2012-TAE-4.

Respondents appealed the case and the Administrative Review Board vacated my order, noting that the Agency had discontinued relying on lack of notice as grounds for finding contract and transportation cost liability. The Board then remanded the case, directing me to determine if the evidence supported alternative grounds for such liability; specifically whether Respondents issued two warning letters prior to termination or acted with good cause.²

Once I received the case, and attempted to set a schedule for any further hearing or evidentiary development, Respondents' counsel indicated that he was having difficulty communicating with them and eventually withdrew. My office staff has been similarly unable to communicate with Respondents.

I ordered Respondents to communicate in some fashion their intentions as to this matter and show cause as to why I should not follow the order of remand based on the evidence offered in the original motion for summary decision. They have not responded to the order.

Accordingly, I have the same evidentiary record as before, but now no longer apply the absence of a genuine issue of material fact standard. Particularly, in the absence of any argument by Respondents, I find that it is more likely than not that Respondent did not issue the two warning letters as required by the contract and did not have good cause for the firing of Amador Aquino. Therefore, I once again order Respondents to pay a total of \$9,216.51 as follows:

¾ Guaranteed Pay	\$4,362.60	(and \$1,000.00 CMP)
Inbound Transport	\$741.56	(and \$1,000.00 CMP)
Outbound Transport	\$1,112.35	(and \$1,000.00 CMP)

ORDERED this 24th day of May, 2017 at Covington, Louisiana.

PATRICK M. ROSENOW
Administrative Law Judge

² ARB Case No. 2013-0083 (15 June 2015).