



In the Matter of:

STEVEN L. BASIC,

ARB CASE NO. 09-015

COMPLAINANT,

ALJ CASE NO. 2008-AIR-010

v.

DATE: December 15, 2010

SPIRIT AEROSYSTEMS, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Steven L. Basic, pro se, Wichita, Kansas

For the Respondents:

Forrest T. Rhodes, Jr., Esq., Foulston Siefkin, L.L.P., Wichita, Kansas

Before: Paul M. Igasaki, Chief Administrative Appeals Judge, Luis A. Corchado, Administrative Appeals Judge, and Joanne Royce, Administrative Appeals Judge

ORDER DENYING RECONSIDERATION

Steven L. Basic filed a complaint with the United States Department of Labor (DOL) alleging that his employer, Spirit AeroSystems, Inc., violated the employee protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21 or the Act), 49 U.S.C.A. § 42121 (Thomson/West 2007).¹ Spirit filed a motion for summary decision seeking dismissal of the complaint. *See* 29 C.F.R. § 18.40(a) (2010).

A DOL Administrative Law Judge (ALJ) dismissed Basic's complaint as untimely filed. Basic appealed to the Administrative Review Board (ARB), which

affirmed the ALJ's decision. *Basic v. Spirit Aerosystems, Inc.*, ARB No. 09-015, ALJ No. 2008-AIR-010 (ARB Oct. 21, 2010).

On November 9, 2010, Basic submitted a letter to the ARB. Basic's letter asks the Board to send him unspecified documents. As he previously argued before the Board, he claims that he timely filed his complaint because he did not receive, until 2008, the exact wording of the PreScreen America printout stating that he had been separated for insubordination, which a potential employer used in September 2005 to rescind its job offer. Basic November 9, 2010 letter at 1-2. We will construe this letter as a motion for reconsideration. See *Powers v. Paper, Allied-Industrial Chemical & Energy Workers Int'l Union (PACE)*, ARB No. 04-111, ALJ No. 2004-AIR-019, slip op. at 4 (ARB Dec. 21, 2007).

In addressing a motion for reconsideration, the ARB has considered four independent factors to determine whether the movant has demonstrated a sufficient basis for his motion. Reconsideration will not be entertained unless at least one of these conditions can be demonstrated: (i) material differences in fact or law from those presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, or (iv) failure to consider material facts presented to the court before its decision. *Williams v. United Airlines*, ARB No. 08-063, ALJ No. 2008-AIR-003, slip op. at 2-3 (ARB June 23, 2010), *appeal docketed sub nom. Williams v. U.S. Dep't of Labor*, No. 10-71595 (9th Cir. 2010).

Basic has not demonstrated that any of the provisions of the Board's four-part test apply. He does not argue that there were material differences in the law or fact from those presented to the ARB of which he could not have been aware through reasonable diligence. He does not assert that there has been a change in the law or that new facts have arisen since the October 2010 decision. Finally, he does not indicate that the ARB did not consider material facts prior to issuing that decision. Accordingly, we **DENY** Basic's motion for reconsideration.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LUIS A. CORCHADO
Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge