



In the Matter of:

KENNETH TIPTON,

ARB CASE NO. 04-147

COMPLAINANT,

ALJ CASE NO. 2002-ERA-030

v.

DATE: August 25, 2010

**INDIANA MICHIGAN POWER
COMPANY,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

John T. Burhans, *Burhans Law Offices*, St. Joseph, Michigan

For the Respondent:

Daryl M. Shapiro, Timothy J. V. Walsh, *Pillsbury Winthrop Shaw Pittman LLP*, Washington, District of Columbia

BEFORE: Paul M. Igasaki, *Chief Administrative Appeals Judge*, and Wayne C. Beyer, *Administrative Appeals Judge*

SUPPLEMENTAL ORDER ON ATTORNEY'S FEES

Kenneth Tipton complained that the Respondent, Indiana Michigan Power Company (I&M), terminated his employment in violation of the employee protection provisions of the Energy Reorganization Act (ERA), 42 U.S.C.A. § 5851 (West 2003). The Administrative Review Board (ARB or Board) issued a Final Decision & Order on

September 29, 2006, affirming the Administrative Law Judge's (ALJ) decision that I&M violated the ERA when it fired Tipton in retaliation for his whistleblower activities. I&M appealed the Board's decision to the United States Court of Appeals for the Sixth Circuit. I&M also filed a motion for reconsideration with the Board as well as a motion to stay the Board's decision pending a final decision on I&M's appeal of the Board's decision to the Court of Appeals. On June 27, 2007, the Board issued an Order Granting Reconsideration and Denying Motion for Stay, granting I&M's request for reduction of Tipton's front pay award and denying I&M's requests to discount the award to present value and stay the case. On May 20, 2008, the Sixth Circuit affirmed the Administrative Review Board's decision in this case.

On December 18, 2008, the ARB issued an Order on Attorney's Fees. This Order awarded Tipton's attorney's fees and costs for work performed before the Board through October 16, 2006, and for his attorney's successful defense of I&M's appeal to the Sixth Circuit. However, the Board's December 18, 2008 Order did not address a request for fees contained in Tipton's Answer to I&M's motion to stay. Before us at this time is Tipton's January 9, 2009 motion for reconsideration and modification of the Board's Order on fees. Specifically, Tipton seeks to recover additional fees for opposing I&M's motion to stay in the amount of \$5,760.00 and \$270.00 for 1.2 hours of attorney time expended on his reply brief to I&M's opposition to Tipton's petition for attorney's fees and costs in the Sixth Circuit. In an Answer dated January 15, 2009, I&M's counsel informed the ARB that I&M did not oppose Tipton's request for additional fees.

Accordingly, we **GRANT** Tipton's request for additional attorney's fees against I&M in the amount of \$6030.00.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge