



IN THE MATTER OF:

PRIMO C. NOVERO,

ARB CASE NO. 15-072

COMPLAINANT,

ALJ CASE NO. 2013-ERA-018

v.

DATE: November 18, 2015

DUKE ENERGY FLORIDA, INC.;
URS ENERGY & CONSTRUCTION, INC.;
and CDI CORP.;

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Primo C. Novero, *pro se*, Russellville, Arkansas

For the Respondent:

Lewis M. Csedrik, Esq.; *Morgan, Lewis & Bockius, LLP*; Washington,
District of Columbia

BEFORE: Paul M. Igasaki, *Chief Administrative Appeals Judge* and Joanne Royce,
Administrative Appeals Judge

ORDER DISMISSING COMPLAINT

On November 10, 2015, Respondents filed a Joint Motion to Dismiss Complaint with Prejudice (Mot. Dis.) in this case arising under the employee protection provisions of the Energy Reorganization Act (ERA), as amended, and implementing regulations.¹

¹ 42 U.S.C.A. § 5851 (Thomson Reuters 2012) (ERA); 29 C.F.R. Part 24 (2015).

Respondents aver that on September 22, 2015, “Mr. Novero now has elected to forego his appeal before the Board by filing his ERA claim before the U.S. District Court for the Eastern District of Arkansas.”² Attached to Respondents’ Motion is a copy of Novero’s Complaint in Civil Action No. 4:15cv594-KGB.

If the Board has not issued a final decision within 180 days of the date on which the complainant filed a SOX complaint³ with the Department of Labor, and there is no showing that the complainant has acted in bad faith to delay the proceedings, the complainant may bring an action at law or equity for de novo review in the appropriate United States district court, which will have jurisdiction over the action without regard to the amount in controversy.⁴ Further, the complainant must file a copy of the file-stamped complaint with the Board within seven days of filing the complaint in Federal court.⁵

Novero has filed a complaint for de novo review in district court. The Board has no record that Novero filed a copy of the file-stamped complaint with it, but the Board has received a copy of the complaint, nevertheless. Accordingly, we **DISMISS** his SOX complaint filed with the Department of Labor.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

² Mot. Dis. at 2.

³ Novero filed his complaint with the Occupational Safety and Health Administration on January 31, 2013.

⁴ 18 U.S.C.A. § 1514A(b)(1)(B); 29 C.F.R. § 1980.114.

⁵ 29 C.F.R. § 1980.114(b).