



In the Matter of:

ADAM McNIECE,

ARB CASE NO. 15-083

COMPLAINANT,

ALJ CASE NO. 2015-ERA-005

v.

DATE: January 12, 2017

**DOMINION NUCLEAR CONNECTICUT,
INC.,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Adam McNiece, *pro se*, East Lyme, Connecticut

For the Respondent:

Charles C. Thebaud, Jr., Esq. and Anna V. Jones, Esq.; *Morgan, Lewis & Bockius, LLP*; Washington, District of Columbia

BEFORE: Paul M. Igasaki, *Chief Administrative Appeals Judge*; E. Cooper Brown, *Administrative Appeals Judge*; and Joanne Royce, *Administrative Appeals Judge*

ORDER DENYING MOTION FOR RECONSIDERATION

Adam McNiece alleged, in a complaint filed under the whistleblower protection provisions of the Energy Reorganization Act of 1974,¹ that because he reported safety violations to Respondent Dominion Nuclear Connecticut (DNC) and the Nuclear Regulatory Commission (NRC), DNC “has retaliated against me by willfully and knowingly creating a hostile

¹ 42 U.S.C.A. § 5851 (Thomson Reuters 2012) (ERA).

environment for my wife,’ including ‘public belittling to lower evaluations and a sideline position.’”² McNiece filed the complaint on January 22, 2015. A Department of Labor Administrative Law Judge (ALJ) concluded that, “Viewing all the evidence and factual inferences in the light most favorable to McNiece, the non-moving party, I find that Respondent has established that there is no genuine issue of material fact as to an essential element of McNiece’s claim—the timeliness of his complaint under the ERA.”³ The ALJ granted Respondent’s Motion to Dismiss and dismissed McNiece’s complaint with prejudice.⁴ McNiece filed a timely petition for review with the Administrative Review Board.⁵ In a Decision and Order issued November 30, 2016, the Board affirmed the ALJ’s decision and dismissed the case. On December 9, 2016, McNiece filed a motion requesting the Board to reconsider its denial of his complaint.

We have previously identified four non-exclusive grounds for reconsidering a final decision and order. The grounds for reconsideration include, but are not limited to, whether the movant has demonstrated

(i) material differences in fact or law from that presented to [the Board] of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the [Board’s] decision, (iii) a change in the law after the [Board’s] decision, and (iv) failure to consider material facts presented to the [Board] before its decision.^[6]

² *McNiece v. Dominion Nuclear Conn., Inc.*, ALJ No. 2015-ERA-005, slip op. at 3 (Aug. 11, 2015).

³ *Id.* at 7.

⁴ *Id.*

⁵ The Secretary of Labor has delegated to the Administrative Review Board authority to issue final agency decisions under the ERA. Secretary’s Order No. 02-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69,378-69-380 (Nov. 16, 2012); 29 C.F.R. § 24.110(a)(2016).

⁶ *Kirk v. Rooney Trucking*, ARB No. 14-035, ALJ No. 2013-STA-042, slip op. at 2 (ARB Mar. 24, 2016); *OFCCP v. Fla. Hosp. of Orlando*, ARB No.11-011, ALJ No. 2009-OFC-002, slip op. at 4, n.4 (ARB July 22, 2013) (Order Granting Motion for Reconsideration and Vacating Final Decision and Order Issued Oct. 19, 2012) (citation omitted).

McNiece's motion for reconsideration contains no argument as to any of these grounds or any other legally sufficient grounds supporting his Motion for Reconsideration. Accordingly, the motion is **DENIED**.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge