



In the Matter of:

MARK J. WATSON,

ARB CASE NO. 07-009

PROSECUTING PARTY,

ALJ CASE NO. 2006-LCA-31

v.

DATE: October 20, 2006

**INTERNATIONAL BUSINESS MACHINES
CORPORATION,**

RESPONDENT,

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Complainant:

Mark J. Watson, *pro se*, Bartlett, Tennessee

**NOTICE THAT THE ADMINISTRATIVE REVIEW BOARD
DECLINES TO REVIEW THE ADMINISTRATIVE LAW JUDGE'S
DECISION AND ORDER**

On October 3, 2006, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order Motion to Dismiss (D. & O.) in this case arising under the Immigration and Nationality Act (INA or the Act).¹ The ALJ concluded that he was bound by the Administrative Review Board's decision in *Watson v. Electronic Data Sys. Corp.*², in which the Board held that, in the absence of an investigation by the Administrator of the Wage and Hour Division, an administrative law judge may neither

¹ 8 U.S.C.A. §§ 1101-1537 (West 1999 & Supp. 2004) and implemented at 20 C.F.R. Part 655, Subparts H and I (2006).

² ARB Nos. 04-023, -029, -050; ALJ Nos. 04-LCA-09, 03-LCA-30 (May 31, 2005).

hear the case nor review the Administrator's decision than an investigation was not warranted.³

On October 11, 2006, the Prosecuting Party filed a notice of appeal in this case requesting the Board to review the ALJ's D. & O.⁴ Attached to the D. & O. is a "Notice of Appeal Rights" that provides in pertinent part:

If no Petition [for Review] is timely filed, then the administrative law judge's decision becomes the final order of the Secretary of Labor. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 655.840(a).

Accordingly, pursuant to 20 C.F.R. § 655.845 (2006), the Board hereby gives notice that it **DECLINES** to review the ALJ's Decision and Order.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

³ D. & O. at 4.

⁴ The Board has jurisdiction to review an ALJ's decision arising under the INA. 8 U.S.C.A. § 1182(n)(2) and 20 C.F.R. § 655.845. *See also* Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002) (delegating to the ARB the Secretary's authority to review cases arising under, inter alia, the INA).