



In the Matter of:

DANIEL S. SOMERSON,

ARB CASE NOS. 02-052

COMPLAINANT,

ALJ CASE NOS. 02-STA18

v.

02-STA-19

MAIL CONTRACTORS,

DATE: March 18, 2002

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

ORDER DISMISSING COMPLAINANT’S APPEAL

This case arose when complainant Daniel S. Somerson filed complaints alleging that respondent Mail Contractors of America violated the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C. §31105 (1994). The U.S. Department of Labor’s Occupational Safety and Health Administration investigated the complaints and issued findings. Somerson requested a hearing by the Department of Labor’s Office of Administrative Law Judges pursuant to 29 C.F.R. §1978.107(b).

An Administrative Law Judge (ALJ) convened a hearing in this case on February 6, 2002. Finding that Somerson had “willfully and intentionally violated court orders, abused personnel during telephone calls and . . . disrupted the conduct of the formal hearing,” the ALJ terminated the hearing and ordered the U.S. Marshals to escort Somerson from the courtroom. On February 11, 2002, Somerson filed with the Administrative Review Board, by facsimile, a “Motion for peer review of ALJ Richard E. Huddleston, a new hearing, and selection of another Administrative Law Judge to properly hear this STAA case.” The Board docketed this appeal as ARB No. 02-052.

The Board has jurisdiction to issue final decisions and orders in cases arising under the STAA, upon review of an administrative law judge’s decision and order and the case record.

^{1/} This appeal has been assigned to a panel of two Board members, as authorized by Secretary’s Order 2-96. 61 Fed. Reg. 19,978 §5 (May 3, 1996).

29 C.F.R. §1978.109(c)(1). When Somerson filed his motion in this case, the ALJ had not yet issued a decision and order in the case. Thus the Board does not have jurisdiction to consider Somerson's appeal in ARB No. 02-052, and this appeal is **DISMISSED**.

The ALJ subsequently issued a Recommended Order Dismissing Complaints in this case on February 20, 2002. Pursuant to 29 C.F.R. §1978.109(a), the ALJ forwarded the decision to the Board for review. The Board docketed this case as ARB No. 02-057 and issued a Notice of Review and Briefing Schedule on February 25, 2002. The Board will consider all issues raised by the parties over which the Board has jurisdiction in connection with our review of ARB No. 02-057. However we note that pursuant to Secretary's Order 02-096, Authority and Responsibilities of the Administrative Review Board, and 29 C.F.R. §1978.109(c), we do not have jurisdiction to conduct a "peer review" of an ALJ or to select any particular ALJ to hear a STAA case.

SO ORDERED.

M. CYNTHIA DOUGLASS

Chief Administrative Appeals Judge

WAYNE C. BEYER

Administrative Appeals Judge