



In the Matter of:

KEVIN J. HUSEN,

**ARB CASE NOS. 05-115
05-130**

COMPLAINANT,

ALJ CASE NO. 2005-STA-8

v.

DATE: June 29, 2006

WIDE OPEN TRUCKING, INC.,

and

JEREMY RUNYON,

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Paul O. Taylor, Esq., Truckers Justice Center, Burnsville, Minnesota

FINAL DECISION AND ORDER

These cases arise under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended.¹ Kevin J. Husen filed a complaint with the Occupational Safety and Health Administration (OSHA) on September 27, 2004, alleging that Wide Open Trucking, Inc.² and Jeremy Runyon “violated the employee protection provisions of the STAA by retaliating against him for

¹ 49 U.S.C.A. § 31105 (West 1997).

² Wide Open Trucking, Inc. is a company run solely by Jeremy Runyon. R. D. & O. at 4, citing Affidavit of Kevin J. Husen in Support of Motion for Summary Decision.

notifying the Federal Motor Carrier Safety Administration of Respondents' hiring and drug testing practices." Recommended Decision and Order Awarding Default Judgment (R. D. & O.) at 1.

Neither Wide Open Trucking, Inc. nor Jeremy Runyon appeared before OSHA or the Office of Administrative Law Judges to respond to Husen's complaint. R. D. & O. at 1-4. On June 23, 2005, the Administrative Law Judge issued his R. D. & O. awarding default judgment to Husen and assessing lost wages. On July 26, 2005, the ALJ issued a Recommended Supplemental Decision and Order Approving Attorney's Fee and Case Expenses. These matters came to the Administrative Review Board pursuant to the automatic review procedures of the STAA implementing regulations. 29 C.F.R. §§1978.109(a) and (c)(1) (2005). We issued Notices of Review and Briefing Schedules for these cases on June 28, 2005, and July 28, 2005. None of the parties filed briefs.

On November 7, 2005, we received Husen's Motion to Stay Proceeding, requesting that the Board "stay this case until such time as there is either a discharge of Jeremy Runyon, a denial of discharge, or a determine [sic] that this claim is not dischargeable ...". The Motion incorporated a copy of Runyon's bankruptcy notice (Case Number 05-49315-RJK) issued by the United States Bankruptcy Court for the District of Minnesota.

We issued an Order to Show Cause on June 9, 2006, indicating that the Bankruptcy Court had granted Runyon a discharge under Chapter 7 of the Bankruptcy Code, 11 U.S.C.A. § 727 (West 2004). The Order directed the parties to show cause why Husen's complaint should or should not be dismissed. Husen responded to the Order on June 27, 2006 by stating that he "does not oppose the dismissal of this proceeding." Husen's response does not indicate why, in light of the ruling of the Bankruptcy Court, we should proceed to the merits of his complaint. Accordingly, we **DISMISS** the complaint with prejudice.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge