



In the Matter of:

REBECCA S. CLAYPOOLE,
COMPLAINANT,
v.

ARB CASE NO. 08-041
ALJ CASE NO. 2008-STA-005
DATE: February 26, 2008

U.S. EXPRESS ENTERPRISES,
RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER DISMISSING CASE

On January 17, 2008, a United States Department of Labor Administrative Law Judge issued a Recommended Order of Dismissal (R. O. D.) in this case arising under the Surface Transportation Assistance Act of 1982 (STAA)¹ and its implementing regulations.² The ALJ noted that the dismissal was necessary because two ALJ docket numbers had erroneously been assigned to the same complaint. Thus, the ALJ stated, “[t]o eliminate the duplication of the cases, it is now necessary for me to dismiss Case Number 2008-STA-00005, purely for administrative purposes.”³

The ALJ forwarded the case to the Administrative Review Board pursuant to the automatic review provision applicable to STAA cases.⁴ The Secretary of Labor has delegated to the Board the authority to issue final agency decisions under the STAA.⁵

¹ 49 U.S.C.A. § 31105 (West 2008).

² 29 C.F.R. Part 1978 (2007).

³ R. O. D. at 2.

⁴ 29 C.F.R. § 1978.109(a).

⁵ Secretary’s Order 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002).

Generally in STAA cases, the parties are permitted to file briefs in support of or in opposition to the ALJ's recommended order within thirty days of the date on which the ALJ issued the order, and the Board is required to issue a final decision and order based on the record and the decision and order of the administrative law judge.⁶

In this case however, because the ALJ dismissed the case to correct an administrative error that had assigned two different ALJ case numbers to the same case, and no substantive or procedural rights have been affected by this dismissal, it appeared highly unlikely that either party would wish to file a brief in this matter. Thus the Board ordered the parties to show cause no later than February 11, 2008, why the Board should not dismiss ALJ case number 2008-STA-005 as the ALJ recommended.⁷ The Show Cause Order notified the parties that if the parties did not respond to the Order, the Board could issue an order dismissing the case as the ALJ has recommended, without further notice to the parties.

Neither party has responded to the Show Cause Order. Accordingly, there being no objection to the ALJ's R.O.D. and knowing of no reason that we should not accept the R.O.D., we do so and **DISMISS** this case.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge

⁶ 29 C.F.R. § 1978.109 (c)(1), (2).

⁷ See 29 C.F.R. 1978.109(c)(2) which provides:

The parties may file with the Administrative Review Board, United States Department of Labor, briefs in support of or in opposition to the administrative law judge's decision and order within thirty days of the issuance of that decision **unless the Administrative Review Board, United States Department of Labor, upon notice to the parties, establishes a different briefing schedule.**

(Emphasis added).