

Todd



In the Matter of:

CURTIS C. DICK,

ARB CASE NO. 14-054

COMPLAINANT,

ALJ CASE NO. 2013-STA-060

v.

DATE:

MAY 14 2014

TANGO TRANSPORT,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER HOLDING PETITION FOR REVIEW IN ABEYANCE

U.S. DEPARTMENT OF LABOR
ADMINISTRATIVE LAW JUDGES
WASHINGTON, DC
2014 MAY 21 AM 10:49

On April 18, 2014, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order (D. & O) in this case arising under the employee protection provisions of the Surface Transportation Assistance Act of 1982.¹ Complainant Curtis Dick asserts that he filed a Request for Reconsideration of this Decision and Order with the ALJ. On May 7, 2014, Complainant filed a Petition for Review with the Administrative Review Board. The ALJ has not yet acted upon Complainant's request for reconsideration.

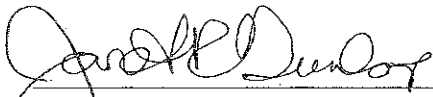
The Secretary of Labor has delegated authority to issue final agency decisions on cases on appeal under the STAA to the ARB.² Here, if the ALJ accepts Dick's Motion for Reconsideration as timely filed, the ALJ's decision is not currently ripe for appeal.

¹ 42 U.S.C.A. § 31105 (Thomson/West Supp. 2013) (STAA). The STAA's implementing regulations are found at 29 C.F.R. Part 1978 (2013).

² Secretary's Order No. 2-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69,378 (Nov. 16, 2012). Pursuant to 29 C.F.R. § 1978.110(a), to be timely, an appeal of an ALJ's decision must be filed with the ARB within 14 calendar days of the date of the ALJ's decision. Upon erroneous advice from the ARB, Dick filed his Petition for Review on the 14th business day following the issuance of the ALJ's D. & O. Because Dick relied on this erroneous advice, to his potential detriment, we toll the limitations period and accept the petition for review as

Accordingly, if, the ALJ finds that the Motion for Reconsideration was not timely filed, Dick must notify the Board of the ALJ's decision and the ALJ will reactivate the appeal in this case. At that time the Board will decide whether to accept the case for review, and if it does, then the Board will issue a briefing schedule. If the ALJ issues a decision on reconsideration, and either Complainant or Respondent wishes to file an appeal in this case, the petition for review should be filed with the Board as provided in 29 C.F.R. § 1978.110(a). The Board will determine whether to accept any appeal filed, and if an appeal is accepted, will request further briefing as necessary.

FOR THE ADMINISTRATIVE REVIEW BOARD:



Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to
the Board's legal assistants. Telephone: (202) 693-6200
Facsimile: (202) 693-6220

timely in this instance. *See Administrator v. Foodpro Int'l, Inc.*; ARB No. 09-014, ALJ No. 2008-LCA-005, slip op. at 4-5 (ARB Dec. 10, 2008). But in the future, we expect all parties to timely file any petitions in accordance with the regulations.