



In the Matter Of

DONALD J. WILLY,

CASE NO. 85-CAA-1

COMPLAINANT,

DATE: July 1, 1996

v.

THE COASTAL CORPORATION
AND COASTAL STATES
MANAGEMENT CORPORATION,

RESPONDENT.

BEFORE: The Administrative Review Board^{1/}

ORDER

The Secretary remanded this case to the Administrative Law Judge (ALJ) to calculate back pay due the Complainant Donald J. Willy. The Secretary found that Respondent discriminated against Willy when it fired him but rejected the ALJ's recommendation to deny all relief because at the hearing Willy misrepresented his attempts to mitigate damages. Willy argued before the ALJ on remand that he is also entitled to exemplary or punitive damages under some of the statutes under which the complaint in this case was filed. The ALJ has requested clarification of whether the Secretary's remand order allows for consideration of an award of exemplary damages in addition to back pay.

On remand, the ALJ should make a recommendation whether the Board should award exemplary damages, and the amount of the award, if any, under any of the statutes providing for such damages. *See, e.g.*, the Toxic Substances Control Act, 15 U.S.C. § 2622(b)(2)(B) (1988) ("the Secretary shall order . . . where appropriate, exemplary damages."); *Johnson v. Old*

^{1/} This case was filed before the Secretary of Labor pursuant to the Clean Air Act and 29 C.F.R. Part 24. On April 17, 1996, the Secretary delegated jurisdiction to issue final agency decisions under this statute and these regulations to the newly created Administrative Review Board (the Board). Secretary's Order 2-96 (Apr. 17, 1996), 61 Fed. Reg. 19978, May 3, 1996 (copy attached).

Dominion Security, Case No. 86-CAA-3,4,5, Sec'y. Dec. May 29, 1991, slip op. at 28-30; *Pogue v. United States Dep't of the Navy*, Case No. 87-ERA-21, Sec'y. Dec. on Remand Apr. 14, 1994, slip op. at 15-22.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member