



In the Matter of:

JOSEPH BRUCE CHALK,

ARB CASE NO. 97-119

COMPLAINANT,

(ALJ CASE NO. 97-ERA-4)

v.

**JERRY L PETTIS MEMORIAL
VETERANS AFFAIRS MEDICAL
CENTER,**

DATE: July 27, 1997

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER TO SHOW CAUSE

On July 8, 1997, Administrative Law Judge (ALJ) Samuel J. Smith issued a Recommended Order of Dismissal (R. O. D.) in this matter arising under the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. §5851 (1988 and Supp. IV 1992). By Pre-Hearing Order, the ALJ scheduled a formal hearing for March 25, 1997 and further directed the parties to submit prehearing statements on or before March 14, 1997. Respondent filed a Pre-Hearing statement and a motion for summary decision; however, Complainant did not file a statement or a response to the motion for summary decision.

The ALJ canceled the previously scheduled hearing and by Order of March 26, 1997 directed Complainant to file either a response to the motion for summary decision or a request for an extension of time in which to file such a response. Complainant did not file either a response or a request for an extension of time.

On April 23, 1997, the ALJ denied Respondent's motion for summary decision and granted Complainant until May 9, 1997 to file his Pre-Hearing statement. On May 1, 1997 Complainant requested a continuance. On May 8, the ALJ granted Complainant an extension of time to June 9, 1997 in which to file the Pre-Hearing statement. In that Order granting an extension, the ALJ notified the parties that "no further extensions [would] be granted absent a showing of extreme good cause." R. O. D. at 2. Complainant failed to file the statement within the allotted time and did not contact the ALJ's office to seek a further extension.

On June 20, 1997, the ALJ issued an Order to Show Cause (sent to Complainant via certified mail and delivered on June 24, 1997). The ALJ directed Complainant to show cause on or before July 3, 1997 why this matter should not be dismissed, citing in the Order to Show Cause the regulation at 29 C.F.R. §24.5(e)(4), governing dismissals of employee protection

cases. Complainant did not comply with the ALJ's Order to Show Cause. Based on this procedural history, the ALJ issued his R. O. D.

Complainant has **fifteen days from** the date of this order to show cause why this case should not be dismissed with prejudice by filing his response with the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4309, Washington, D.C., 20210. If Complainant files a response to this Order to Show Cause, Respondent may file a reply with the Board with 10 days of the date of Complainant's statement.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Gerald F. Krizan, Esq.
Executive Director