



In the Matter of:

STEPHEN L. JACKSON,

ARB CASE NO. 98-041

COMPLAINANT,

ALJ CASE NO. 98-ERA-6

v.

DATE: June 22, 1998

NORTHEAST UTILITIES COMPANY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER

The Administrative Law Judge (ALJ) submitted a Recommended Order of Dismissal in this case arising under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. §5851 (1988 and Supp. V 1993), recommending that the complaint be dismissed on two grounds. The ALJ found that Complainant did not file a request for a hearing after the adverse determination by the Occupational Safety and Health Administration (OSHA) and that Complainant failed to respond to an Order to Show Cause issued by the ALJ.

1. Background

Complainant filed a complaint under the ERA against Respondent Northeast Utilities Company on September 4, 1997. On October 15, 1997, OSHA sent a letter to Complainant notifying him of its finding that discrimination was not a factor in the adverse actions which were the subject of the complaint. There is nothing in the record to show when Complainant actually received the OSHA letter. OSHA referred the case to the Office of Administrative Law Judges on October 16, 1997, and the ALJ issued a Notice of Hearing and Pre-hearing Order on October 28, 1997. Subsequently, a review of the file by the ALJ showed that no request for a hearing had been made by Complainant. The ALJ on November 6, 1997 therefore issued an order to show cause why the complaint should not be dismissed. Complainant did not file a response to the order to show cause. The ALJ recommended that the complaint be dismissed both because Complainant did not file a request for a hearing, as required under 29 C.F.R. §24.4(d)(2)(i), and because Complainant did not respond to the order to show cause.

2. Discussion

Because Complainant did not respond to the ALJ's Order to Show Cause we agree with the ALJ that the complaint should be dismissed. The regulations implementing the ERA authorize dismissal of a claim when the complainant fails to respond to an order of the ALJ. 29 C.F.R. §24.5(e)(4)(i)(B).

Accordingly, the complaint in this case is **dismissed**.

SO ORDERED.

KARL J. SANDSTROM

Chair

PAUL GREENBERG

Member

CYNTHIA L. ATTWOOD

Acting Member