



In the Matter of:

**BRIAN K. RUSSELL,**

**ARB CASE NO. 98-017**

**COMPLAINANT,**

**(ALJ CASE NO. 97-STA-27)**

**v.**

**DATE: NOV 5 1997**

**CHALLENGER MOTOR FREIGHT  
CORPORATION,**

**RESPONDENT.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

### **ORDER TO SHOW CAUSE**

On October 16, 1997, the Chief Administrative Law Judge (ALJ) issued an Order of Dismissal in this matter arising under the employee protection provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. §31105 (West 1994). On October 29, 1997, the ALJ issued an Order correcting errata in the Order of Dismissal, including the correction that the ALJ's Order was changed to "Recommended Order of Dismissal."

Investigation findings concerning Complainant's allegations of protected activity were issued by the Department of Labor on December 31, 1996. Complainant filed a letter containing a number of objections to the investigation findings with the office of the ALJ on July 14, 1997. The implementing regulations at 29 C.F.R. §1978.105 provide that written objections are considered to be a request for a hearing before an ALJ. That regulation also provides that objections to investigative findings must be filed within 30 days of receipt of the findings.

On July 21, 1997, the ALJ ordered Complainant to show cause why his request for a hearing should not be dismissed for lack of timeliness. As of October 16, 1997, Complainant had failed to respond to the ALJ's Order to Show Cause. The ALJ then entered his Orders, dismissing this case and correcting errata, as noted above.

Based on this procedural history, the Board hereby directs that 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 -- **not to exceed ten (10) double-spaced typed pages** -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 -- **not to exceed ten (10) double-spaced typed pages** -- with the Board with 10 days of the date of Complainant's statement.

All pleadings are expected to conform to the page limitations and should be prepared in Courier 12 point, 10 character-per-inch type or larger, with minimum one inch left and right margins and minimum 1 1/4 inch top and bottom margins, printed on 8 1/2 by 11 inch paper.

**FOR THE ADMINISTRATIVE REVIEW BOARD:**

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