

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 18 July 2007**

Case No.: 2007-LCA-00021

In the Matter of

**ASHWANI GOEL**

Complainant

v.

**BION HEALTHCARE STAFFING LLC  
(FORMERLY TEAM HEALTH CARE)**

Respondent

**ORDER DISMISSING COMPLAINANT'S APPEAL**

This matter arises pursuant to the Immigration and Nationality Act, and the regulations governing temporary employment of Aliens in the United States. 8 U.S.C. § 1101(a)(15)(H)(1)(b); 20 C.F.R. part 655, subparts H & I.

On June 6, 2007, I issued an "Order to Show Cause Whether this Matter is Properly Before the Office of Administrative Law Judges." My Order was based on the fact that the Administrator, Wage and Hour Division, had declined to investigate the Complainant's allegations. Under the governing regulation, "no hearing or appeal pursuant to this subpart shall be available where the Administrator determines that an investigation on a complaint is not warranted." 29 C.F.R. § 655.806(b). See also 29 C.F.R. § 655.820(b) (which authorizes a hearing upon request of a party, based upon the Administrator's determination "after investigation)."

By letter dated June 26, 2007, the Respondent replied and requested that I dismiss this matter, citing authority from the Administrative Review Board, a federal district court, and the U.S. Court of Appeals for the Federal Circuit. Watson v. Electronic Data Systems Corp., ARB Nos. 04-023, 029, 050 (May 31, 2005); Watson v. Electronic Data Systems Corp., No. 3-04-CV-2291-H (N.D. Tex., June 7, 2005); Watson v. United States, No. 2007-5051 (Fed. Cir. June 7, 2007). By letter dated July 12, 2007, the Complainant requested to withdraw his complaint without prejudice. In his letter, the Complainant stated that he had been terminated from his employment and indicated that he intended to pursue other action against his former employer.

Based on the foregoing, the Complainant's appeal is DISMISSED. This dismissal is without prejudice. However, if the Complainant seeks to reinstate his Complaint, the Complainant must establish how an administrative law judge exercises jurisdiction over this matter, in light of the foregoing precedents.

SO ORDERED.

A

Adele H. Odegard  
Administrative Law Judge

Cherry Hill, New Jersey

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within thirty (30) calendar days of the date of issuance of the administrative law judge’s decision. *See* 20 C.F.R. § 655.845(a). The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file the Petition with the Board, you must serve it on all parties as well as the administrative law judge. *See* 20 C.F.R. § 655.845(a).

If no Petition is timely filed, then the administrative law judge’s decision becomes the final order of the Secretary of Labor. Even if a Petition is timely filed, the administrative law judge’s decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 655.840(a).