



Date: November 27, 1996

Case No.: 96-JSA-3

In the Matter of

DAPHNE LESLIE
Complainant,

v.

MOBILE EMPLOYMENT SERVICE,
Respondent

Before: JOHN M. VITTONI
Chief Judge

ORDER OF DISMISSAL

This proceeding arises under the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. § 49 et seq., and the Department of Labor regulations issued at 20 C.F.R. Part 658.

On March 24, 1995, Complainant filed a timely complaint against the Mobile Employment Service Office, alleging that personnel in the Mobile office misled her concerning a job interview. Pursuant to the Complaint, on June 12, 1995, Complainant was notified to appear for a formal hearing scheduled for June 30, 1995. Complainant failed to appear at the hearing, and the Hearings and Appeals Division of the State of Alabama's Department of Industrial Relations issued a Decision on July 6, 1995 dismissing the Complaint against the Mobile Employment Service. Complainant appealed the July 6, 1995 Decision, and on August 3, 1995, the U.S. Department of Labor's Acting Regional Administrator affirmed the Hearing Officer's determination. Complainant appealed this determination, and on March 3, 1996, the matter was referred to this Office.

By Notice of Docketing and Prehearing Order issued April 10, 1996, the parties were required to submit legal arguments and any supporting documentation regarding the issues in support of their position. DOL filed its response to the Notice of Docketing and Prehearing Order on May 3, 1996.

I issued an Order to Show Cause requiring Complainant to show, within twenty (20) days from the issuance of the Order, why an order of dismissal should not be entered in this case as a result of Claimant's failure to appear at the June 30, 1995 hearing. The Order also informed Complainant that failure to comply with the Order may result in a decision pursuant to 20 C.F.R. § 658.425(a) (3), which states, in pertinent part, that the Administrative Law Judge may "[r]ule that reasonable cause exists to believe that the appeal has been abandoned...."

To date, Complainant has failed to respond to the Notice of Docketing and Prehearing Order or the Order to Show Cause. The regulations at 29 C.F.R. § 18.6(d) (2) (v) state that where a party fails to comply with any order of the administrative law judge, the judge may:

[r]ule that a pleading, or a motion or part of a pleading, or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the non-complying party, or both.

In light of the foregoing, it is hereby ORDERED that the Notice of Determination of the Regional Administrator, sustaining the decision of the state hearing officer, is AFFIRMED; and this matter is DISMISSED.

JOHN M. VITTON
Chief Judge

JMV/mc