

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 19 June 2006

Case No.: 2006-SOX-00066

In the Matter of:

BORIS GORELIK
Complainant

v.

UNITED TECHNOLOGIES CORPORATION
and CARRIER CORPORATION
Respondents

ORDER DISMISSING COMPLAINT

This case arises out of a complaint of discrimination filed on October 7, 2005 by Boris Gorelik (“Gorelik”) against the United Technologies Corporation (“UTC”) and the Carrier Corporation (“Carrier”) pursuant to the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A (West 2004) and the procedural regulations found at 29 C.F.R. Part 1980 (2004). The case is currently set for a formal hearing to convene on July 18, 2006 in Hartford, Connecticut. On June 16, 2006, Gorelik filed a notice pursuant to 29 C.F.R. § 1980.114(b) of his intention to file an action for *de novo* review of his complaint in the United States District Court for the District of Connecticut pursuant to 29 C.F.R. § 1980.114(a).

Under the Sarbanes-Oxley Act, a complainant can remove his case to federal district court “if the Secretary [of the Department of Labor] has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant.” 18 U.S.C. § 1514A(1). Since Gorelik’s complaint was filed on October 7, 2006, more than 180 days have passed. Under these circumstances, the administrative law judge has “no jurisdiction to enter any order in the case other than one dismissing it on the ground that [the Complainant] had removed the case to district court.” *Powers v. Pinnacle Airlines, Inc.*, ARB No. 05-138, ALJ No. 2005-SOX-00065, USDOL/OALJ Reporter (PDF) at 5 (ARB Oct. 31, 2005). *See also Stone v. Duke Energy Corp.*, 432 F.3d 320, 322-323 (4th Cir. 2005).

Accordingly, the complaint filed by Boris Gorelik with the Department of Labor on

October 7, 2005 is **DISMISSED** as the Complainant has removed the case to district court pursuant to 18 U.S.C. §1514A(1).

SO ORDERED.

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DANIEL F. SUTTON
Administrative Law Judge

Boston, Massachusetts