



In the Matter of:

TEAMSTERS UNION LOCAL NO. 166

ARB CASE NO. 01-064

In re: Wage Decision No. CA 990037
modifications #5 and #13

DATE: September 28, 2001

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

Appearances:

For the Petitioner:

Floyd Helms, *Teamsters Union Local No. 166, Barstow, California*

FINAL DECISION AND ORDER

Pursuant to the Davis-Bacon Act, 40 U.S.C.A. §276a *et seq.* (West 1986), and its implementing regulations, an interested person may request the Administrative Review Board to review a wage determination or its application only after the Administrator has denied a request to reconsider the determination or its application. 29 C.F.R. §§1.9, 7.2(a) (2000). A similar procedural standard applies to other types of Davis-Bacon questions that do not involve disputes over wage determinations, *i.e.*, interested parties may seek Board review only after receiving “any final decision in any agency action under [29 C.F.R.] Parts 1, 3, or 5[.]” 29 C.F.R. §7.9. *See, e.g., Thyssen Security Elevator*, ARB No. 99-113 (Oct. 29, 1999).

The Administrative Review Board received a letter from Teamsters Union Local No. 166 (Local 166) ostensibly requesting the Board to review a response the Local received from the Wage and Hour Division to the Local’s inquiries concerning zone pay for electricians in wage decision number CA990037 (modifications 5 and 13) applicable to a contract awarded to Johnson Controls in December 2000. Attached to Local 166’s letter to the Board is a letter from Forest Randall, Acting Section Chief, Construction Wage Determination, Employment Standards Administration, Wage and Hour Division, to Floyd Helms, Business Representative, Local 166 stating:

^{1/} This appeal has been assigned to a panel of two Board members, as authorized by Secretary’s Order 2-96. 61 Fed. Reg. 19,978 §5 (May 3, 1996).

This is in response to your letter of March 22, 2001 in which you asked two questions concerning zone pay in wage decision number CA990037 modification #5 and modification #13. In discussions with our Solicitor's office it was decided that since the zone pay was not included in the wage decision at the time of contract award you would not be required to pay zone pay for electricians.

Whether Randall's letter constituted a final determination of the Administrator from which Local 166 sought review was unclear. Therefore, in an order dated September 7, 2001, we ordered Local 166 to show cause no later than September 26, 2001, why its petition should not be dismissed on the ground that the petition does not comply with 29 C.F.R. §§7.2(a) or 7.9, which limit the Board's review to final determinations of the Administrator. Local 166 has filed no response to our Order. Accordingly, finding no basis upon which to conclude that Local 166 has requested us to review a final determination of the Administrator, we **DISMISS** this case.

SO ORDERED.

E. COOPER BROWN
Member

RICHARD A. BEVERLY
Alternate Member