



In the Matter of:

GENE'S FOOD SERVICE

ARB Case No. 01-060

and

**NORTH CAROLINA DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

DATE: August 30, 2001

In re: Contract No. 98-407-08309
at Fort Bragg, North Carolina

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

Appearances:

For the Petitioner:

John B. DeLuca, *North Carolina Department of Health and Human Services, Raleigh, North Carolina, Gene Thorne, Gene's Food Service, Fort Bragg, North Carolina*

FINAL ORDER DISMISSING APPEAL

This case arose pursuant to the McNamara-O'Hara Service Contract Act of 1965 (SCA), as amended, 41 U.S.C. §351 *et seq.* and 20 C.F.R. Parts 6 and 8. In a letter issued on April 6, 2001, and forwarded to the Department of the Army, the Acting Administrator of the Wage and Hour Division, U.S. Department of Labor, determined that the snack bar services provided by Gene's Food Service at Fort Bragg, NC, were subject to the SCA. Gene's Food Service submitted a petition for review to the Administrative Review Board on June 6, 2001, challenging the Acting Administrator's determination; the appeal was docketed as ARB Case No. 01-060. Separately, the North Carolina Department of Health and Human Services, Division of Services for the Blind (NCHHS), also petitioned for review of the Acting Administrator's decision; this second appeal was docketed as ARB No. 01-087.

By letter dated June 28, 2001, NCHHS notified the Board of its desire to withdraw its appeal. Construing NCHHS's letter as a Motion for Voluntary Dismissal, we granted the motion and dismissed NCHHS's appeal in ARB No. 01-087.

^{1/} This appeal has been assigned to a panel of two Board members, as authorized by Secretary's Order 2-96. 61 Fed. Reg. 19,979 (1996).

Gene Thorne, representing Gene's Food Service, notified the Board by telephone that Gene's Food Service also desired to withdraw its petition for review and that he would confirm this intention in writing. However, the Board did not received written verification of Gene's Food Service's intention to withdraw its petition for review. Accordingly, we ordered Gene's Food Service to show cause why the Board should not dismiss its appeal in accordance with the stated intention.

Gene's Food Service did not respond to the Board's order. We shall interpret Gene's Food Service's silence as verification of its intention to withdraw its appeal. Accordingly, this case is

DISMISSED.

SO ORDERED.

PAUL GREENBERG

Chair

E. COOPER BROWN

Member