



**In the Matter of:**

**ALBERT TRAMMELL,**

**ARB CASE NO. 07-109**

**COMPLAINANT,**

**ALJ CASE NO. 2007-STA-018**

**DATE: October 5, 2007**

**v.**

**NEW PRIME, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**ORDER DENYING RESPONDENT’S MOTION TO FILE BRIEF OUT OF TIME**

On August 10, 2007, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order Dismissing Complaint (R. D. & O.) in this case arising under Section 405, the employee protection provision, of the Surface Transportation Assistance Act (STAA) of 1982.<sup>1</sup> Pursuant to the STAA’s implementing regulations, the ALJ automatically forwarded the R. D. & O. and the administrative file to the Administrative Review Board for review and to issue the final administrative decision in this case.<sup>2</sup>

The STAA’s regulations also provide:

The parties may file with the Administrative Review Board, United States Department of Labor, briefs in support of or in opposition to the administrative law judge's decision and order within thirty days of the issuance of that decision unless the Administrative Review Board, . . . , upon notice to the parties, establishes a different briefing schedule.<sup>3</sup>

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<sup>1</sup> 49 U.S.C.A. § 31105 (West 2006).

<sup>2</sup> See 29 C.F.R. § 1978.109(a)(2007).

<sup>3</sup> 29 C.F.R. § 1978.109(c)(2).

On August 24, 2007, as a courtesy to the parties, the ARB issued a Notice of Review and Briefing Schedule reminding the parties that they may file briefs with the Board in support of or in opposition to the ALJ's R. D. & O. by September 10, 2007.

The Complainant filed for an extension of time on September 7, 2007. Because he demonstrated good cause for his request, on September 13, 2007, the Board granted the motion, extending the filing deadline for Complainant's brief in opposition to the ALJ's R. D. & O. until October 12, 2007.

On September 20, 2007, the Administrative Review Board received the Respondent's Motion to Extend Time to File Responsive Brief in Support of Order Granting Summary Decision and Respondent's Brief in Support of Order Granting Summary Decision dated September 14, 2007. In its motion, the Respondent does not cite any reason for its failure to timely file a brief.

In his September 7, 2007 motion, the Complainant appropriately identified a reason to allow an extension of time and timely requested the extension prior to end of the deadline for filing briefs with the Board. The Respondent did neither. Because the STAA regulations provide for simultaneous briefing,<sup>4</sup> the Respondent's brief was due within thirty days of the ALJ's decision independent of the date on which the Complainant files his brief.

Accordingly, for failure to show good cause, the Respondent's motion is **DENIED**. The Board will not accept the Respondent's brief filed out of time. The ARB will now decide the case based on the record, the decision and order of the administrative law judge, and the Complainant's Brief, if timely filed prior to October 12, 2007.<sup>5</sup>

**FOR THE ADMINISTRATIVE REVIEW BOARD:**

**Janet R. Dunlop**  
**General Counsel**

**Note: Questions regarding any case pending before the Board should be directed to the Board's paralegal specialist, Juanetta Walker at (202) 693-6200 (telephone) or (202) 693-6220 (facsimile).**

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<sup>4</sup> *Id.*

<sup>5</sup> 29 C.F.R. § 1978.109(c)(1).