



In the Matter of:

DANIEL S. SOMERSON,

ARB CASE NO. 06-001

COMPLAINANT,

ALJ CASE NO. 2004-STA-12

v.

DATE: December 13, 2005

EAGLE EXPRESS LINES, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Complainant:

Daniel S. Somerson, pro se, Jacksonville, Florida

FINAL DECISION AND ORDER

On October 3, 2005, Daniel S. Somerson, the Complainant in this case arising under the employee protection provisions of the Surface Transportation Assistance Act (STAA),¹ filed a document with the Administrative Review Board stating:

I recall that there are/were at least two pending motions that Mr. Slavin [Somerson's former attorney] submitted on my behalf (almost two years ago) that have never been answered by DOL-ALJ, Eagle Express Lines Inc., and Thomas Appel. **I believe at least one of those motions was a call for OALJ to issue summary judgment in this matter. . . .**

I request that the ARB and the Secretary of Labor permit Judge Colwell to issue summary judgment in

¹ 49 U.S.C.A § 31105 (West 1997).

this matter based on Mr. Slavin's two previous motions that went unheard and unanswered and that Judge Colwell not rule based [on] my inability to participate.

The Administrative Review Board's authority to act for the Secretary of Labor is limited by the terms of the Secretary's delegation of authority to the Board.² This delegation includes the authority to issue final administrative decisions upon appeals of final decisions of Department of Labor Administrative Law Judges (ALJs) and the discretionary authority to review interlocutory rulings in exceptional circumstances, in cases arising under the STAA.³

Somerson did not request the Board to review an ALJ's decision in this case. Instead, he has asked us to permit the ALJ to issue summary judgment in this matter and to forbid the ALJ to dispose of the case based on Somerson's alleged inability to participate. In his October 3, 2005 filing, Somerson, cited no authority for his apparent belief that the ALJ requires the Board's permission to rule on any summary judgment motions that have been filed in this case or that the Board has the authority to order the ALJ how to rule in a case before the ALJ has issued his decision and order. Accordingly, on October 25, 2005, we ordered Somerson to show cause why the Board should not dismiss his appeal on the ground that the Board does not have authority to grant the relief requested.

We directed Somerson to file his response to this order no later than November 7, 2005, and notified him that "[a] **failure to timely respond to this order may result in the dismissal of the appeal without further notice.**"⁴ Somerson failed to file a response as ordered.

Somerson has not established the Board's authority to grant the relief he has requested and knowing of no such authority, we **DISMISS** his appeal.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

² Secretary's Order 1-2002 (Delegation of Authority and Responsibility to the Administrative Review Board), 67 Fed. Reg. 64272 (Oct. 17, 2002).

³ *Id.*

⁴ Order to Show Cause at 2.