



In the Matter of:

MICHAEL G. POHL,

ARB CASE NO. 06-122

COMPLAINANT,

ALJ CASE NO. 2003-AIR-016

v.

DATE: March 18, 2008

UNITED AIRLINES,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER DISMISSING APPEAL

BACKGROUND

On July 10, 2006, the Administrative Review Board issued a Notice of Appeal and Order Establishing Briefing Schedule (Briefing Order) in this case arising under the whistleblower protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21).¹ The Briefing Order provided, “The Complainant may file an initial brief, not to exceed thirty (30) double-spaced typed pages, on or before **August 9, 2006**. If the Complainant fails to file the initial brief on time, the Board may dismiss the Complainant’s appeal.”

Nevertheless, the Complainant, Michael G. Pohl, failed to file an opening brief on, before, or at any time after the mandated due date. Accordingly, we ordered Pohl to show cause, no later than February 28, 2008, why the Board should not dismiss his

¹ 49 U.S.C.A. § 42121 (West Supp. 2006). The Secretary of Labor has delegated her authority to decide this matter to the Administrative Review Board. *See* Secretary’s Order 1-2002, (Delegation of Authority and Responsibility to the Administrative Review Board) 67 Fed. Reg. 64,272 (Oct. 17, 2002); 29 C.F.R. § 1979.110.

appeal on the grounds that he had failed to timely prosecute it.² We cautioned Pohl, “Failure to timely respond to this order may result in the dismissal of the appeal without further order.” Pohl has failed to respond to the Board’s Show Cause Order.

DISCUSSION

Courts possess the “inherent power” to dismiss a case for lack of prosecution.³ This power is “governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”⁴ In *Mastrianna v. Northeast Utils. Corp.*,⁵ the Board dismissed a complaint in a case in which the complainant failed to adequately explain his failure to comply with the Board’s briefing schedule. The Board explained that it has the inherent power to dismiss a case for want of prosecution in an effort to control its docket and to promote the efficient disposition of its cases.⁶

Pohl has not responded to the Board’s Order to Show Cause and thus he has not explained his failure to timely file an opening brief, nor has he demonstrated good cause why the Board should not dismiss his appeal. Accordingly, we **DISMISS** Pohl’s appeal because he has failed to diligently prosecute it.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge

² See e.g., *McQuade v. Oak Ridge Operations Office*, ARB No. 02-087, ALJ Nos. 1999-CAA-007 to 010 (ARB Oct. 18, 2002); *Pickett v. TVA*, ARB No. 02-076, ALJ No. 2001-CAA-018 (ARB Oct. 9, 2002).

³ *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630 (1962).

⁴ *Id.* at 630-631.

⁵ ARB No. 99-012, ALJ No. 1998-ERA-033 (Sept. 13, 2000).

⁶ *Id.*, slip op. at 2. *Accord Muggleston v. E G & G Def. Materials*, ARB No. 04-060, ALJ No. 2002-SDW-004, slip op. at 2 (ARB June 30, 2004); *Blodgett v. Tenn, Dep’t of Env’t & Conservation*, ARB No. 03-043, ALJ No. 2003-CAA-007, slip op. at 2 (ARB Mar. 19, 2004).