



In the Matter of:

**GENE'S FOOD SERVICE**

**ARB Case No. 01-060**

**and**

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

**ARB Case No. 01-087**

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

**DATE: August 8, 2001**

**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*

**ORDER GRANTING MOTION FOR VOLUNTARY  
DISMISSAL AND DISMISSING APPEAL**

This case arose pursuant to the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. §351 *et seq.* (SCA) 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 this 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 has been docketed as ARB Case 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, *see* Fed. R. App. P. 42(b), we **GRANT** the motion and **DISMISS** NCHHS's appeal in ARB No. 01-087. Gene's Food Service's appeal remains pending before the Board.

**SO ORDERED.**

**PAUL GREENBERG**  
Chair

**E. COOPER BROWN**  
Member