



In the Matter of:

NARRAGANSETT INDIAN TRIBE,

ARB CASE NO. 01-027

COMPLAINANT,

ALJ CASE NO. 00-WIA-6

v.

DATE: February 19, 2002

UNITED STATES DEPARTMENT OF LABOR,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER

On October 24, 2001, the Administrative Review Board received Complainant Narragansett Indian Tribe's (hereinafter "NIT") Motion For Relief. NIT requests relief from the July 20, 2001 Final Decision and Order in this case arising under the Native American Programs section of the Workforce Investment Act of 1998 ("WIA"). 29 U.S.C.A. §2911 (West 1999 and Supp. 2000). In its July 20, 2001 decision, the Board affirmed the Administrative Law Judge's grant of summary judgment to the U. S. Department of Labor.

Complainant states in its motion that it did not receive the Final Decision when it was issued and only became aware of the decision on October 23, 2001, when it telephoned the Board to inquire about the status of the case. NIT requests, without citation to legal authority, that the Board relieve it from the Final Decision so that it can "preserve any rights of appeal" it may have.

According to the WIA's implementing regulations, the ALJ's decision constitutes the final agency action unless (1) a party dissatisfied with the decision files a petition for review with the Administrative Review Board, (2) the Board accepts the matter for review, and (3) the Board issues its decision within 180 days of its acceptance for review. 20 C.F.R. §667.830(b).

NIT filed a timely petition for review on January 12, 2001, and the ARB accepted the appeal on February 14, 2001. As noted above, if the Board had not issued its decision on or before August 13, 2001, the 180th day after the appeal was accepted, the ALJ's decision would have become the final agency action. 20 C.F.R. §667.830(b). Furthermore, had the ARB not issued a decision by August 13, 2001, NIT would have had until September 12, 2001, (thirty days from the date upon which the ALJ's decision would have become the final agency action) to file a review petition with

the United States Court of Appeals having jurisdiction over the applicant. 20 C.F.R. §667.850(a). Given this regulatory structure, NIT had a responsibility to inquire about the status of the case in a timely manner. However, although NIT knew, or should have known, that, at the latest, it had until September 12, 2001, to file a petition for review with the appropriate Court of Appeals, it nevertheless failed to inquire about the case until October 23, 2001. Thus, NIT has failed to demonstrate good cause for the requested relief.^{1/}

Accordingly, NIT's Motion for Relief is **DENIED**.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge

NOTE: Questions regarding any case pending before the Board should be directed to the Board's staff assistant, Ernestine Battle.

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^{1/} Because NIT has failed to show good cause for the relief requested, it was not necessary for the Board to consider its authority to grant such relief.