



In the Matter of:

TRACY A. JAMES,

ARB CASE NO. 96-184

COMPLAINANT,

(ALJ CASE NOS. 96-ERA-5)

v.

DATE: September 6, 1996

**PRITTS-MC ENANY
ROOFING, INC.,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

PRELIMINARY ORDER

On August 22, 1996, the Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. and O.) in this case arising under the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (Supp. IV 1992), as amended by the Comprehensive National Energy Policy Act of 1992 (CNEPA), Pub. L. No. 102-486, 106 Stat. 2776, 3123. The ALJ found in favor of the Complainant and recommended back pay, compensatory damages, and removal of any and all adverse references regarding Complainant's protected activities from her personnel and other records. The ALJ further allowed 15 days from the R. D. and O. for Complainant's attorney to submit a fee petition and until September 30, 1996, for Respondent to reply to the petition. Since the amended ERA requires that a preliminary order awarding damages, **except compensatory damages**, be issued when complainants prevail before an ALJ, the following preliminary order is hereby entered:

1) For the period of October 11, 1995 to and including October 28, 1996, Respondent shall pay Complainant back pay in the amount of \$603.50 plus pre-judgment interest calculated pursuant

^{1/} On April 17, 1996, Secretary's Order 2-96 was signed delegating jurisdiction to issue final agency decisions under the environmental whistleblower statutes and the regulations at 29 C.F.R. Part 24, to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996) (copy attached).

Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order and regulations under which this Board now issues final agency decisions. A copy of the final procedural revisions to the regulations (61 Fed. Reg. 19982), implementing this reorganization is also attached.

to 26 U.S.C. § 6621, plus any fringe benefits the Complainant would have accrued during that period; and

2) Respondent shall remove any and all adverse references regarding Complainant's protected activities from Complainant's personnel and other records and shall refrain from including statements in any job references which have the effect of "blacklisting" Complainant because of her protected activities.

When the ALJ issues a supplemental recommended order on attorneys' fees, a supplemental preliminary order and briefing schedule will be issued.

SO ORDERED.

DAVID A O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member