



In the Matter of:

BRIAN A. GREEN,

ARB CASE NO. 05-034

COMPLAINANT,

ALJ CASE NO. 2004-STA-50

v.

DATE: February 28, 2005

DEFFENBAUGH DISPOSAL SERVICES,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND DISMISSAL ORDER

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 1997). On December 16, 2004, a Department of Labor Administrative Law Judge (ALJ) issued an Order Dismissing Complaint Pursuant to Settlement, based upon a Joint Stipulation of Dismissal with Prejudice and a proposed Order of Dismissal with Prejudice. Both documents were executed by the parties, but neither referred to a settlement. Although the Complainant, Brian Green, appearing pro se, previously indicated a desire to settle the case, see Order on Telephone Conference dated December 8, 2004, we assume no settlement was entered into, since it would have to be submitted to the ALJ for approval and then approved by the Administrative Review Board. See 29 C.F.R. § 1978.111(d)(2).

Pursuant to 29 C.F.R. § 1978.109(a), the ALJ's decision and the record were forwarded to the Administrative Review Board for automatic review and issuance of a final decision. Pursuant to 29 C.F.R. § 1978.109(c)(2), the Board issued a Notice of Review and Briefing Schedule on December 20, 2004, directing the parties within thirty days from the date of the ALJ's Recommended Order of Dismissal to file with the Board briefs in support of or in opposition to the Recommended Order. The Board requested that a party that decided not to file a brief inform the Board by letter, telephone, or facsimile. Neither party has filed a brief or otherwise responded.

Under 29 C.F.R. § 1978.109(c)(1), the Board is required to issue a final decision and order based on the record and the decision and order of the ALJ. Accordingly, the Board has reviewed the record and the ALJ's Recommended Order of Dismissal based upon the parties' Joint Stipulation for Dismissal and determined that the recommended order should be approved. The Complaint should be and hereby is **DISMISSED**.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge