



Issue Date: 24 September 2008

CASE NO.: **2008-SWD-00001**

In the Matter of

WILLIAM AMADOR,
Complainant,

v.

UNITED STATES POSTAL SERVICE (USPS),
Respondent.

DECISION AND ORDER DISMISSING THE COMPLAINT

This proceeding arises under the employee protection provisions of the Solid Waste Disposal Act ("ACT"), hereinafter the "Act", 42 U.S.C. § 6971 (1988); which prohibits covered employers from discharging or otherwise discriminating against employees who have engaged in certain protected activities.

On December 19, 2007, the complainant filed a complaint against the respondent. On February 28, 2008, this complaint was denied by the Deputy Regional Administrator of OSHA.

On March 5, 2008, the complainant filed an appeal with Office of Administrative Law Judges, and the case was assigned to the undersigned Administrative Law Judge.

In contact with the complainant, it was ascertained that he was injured in an automobile accident on April 10, 2008.

Subsequent attempts to contact the complainant have been unavailing.

On June 12, 2008, an attempt to telephone the complainant was unsuccessful.

Contact was made with respondent's counsel on that date. Counsel indicated that she had not been in communication with the complainant.

On June 17, 2008, the undersigned Administrative Law Judge issued an order to show cause why this complaint should not be dismissed.

That order spelled out the provisions of 29 C.F.R. §24.6 which provided that a case could be dismissed for failure to comply with an order.

The order required the complainant to respond on or before July 7, 2008.

There has been no response from the complainant. It is apparent that the complainant does not intend to pursue this case.

RECOMMENDED ORDER

On the basis of the foregoing, I recommend this matter be **DISMISSED**.

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RICHARD K. MALAMPHY
Administrative Law Judge

RKM/ccb
Newport News, Virginia

NOTICE OF APPEAL RIGHTS: This Decision and Order will become the final order of the Secretary of Labor unless a written petition for review is filed with the Administrative Review Board ("the Board") within 10 business days of the date of this decision. The petition for review must specifically identify the findings, conclusions or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties. The date of the postmark, facsimile transmittal, or e-mail communication will be considered to be the date of filing. If the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt.

The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Ave., NW., Washington, DC 20210.

At the same time that you file your petition with the Board, you must serve a copy of the petition on (1) all parties, (2) the Chief Administrative Law Judge, U.S. Dept. of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001, (3) the Assistant Secretary, Occupational Safety and Health Administration, and (4) the Associate Solicitor, Division of Fair Labor Standards. Addresses for the parties, the Assistant Secretary for OSHA, and the Associate Solicitor are found on the service sheet accompanying this Decision and Order.

If the Board exercises its discretion to review this Decision and Order, it will specify the terms under which any briefs are to be filed. If a timely petition for review is not filed, or the Board denies review, this Decision and Order will become the final order of the Secretary of Labor. *See* 29 C.F.R. §§ 24.109(e) and 24.110, found at 72 Fed. Reg. 44956-44968 (Aug. 10, 2007).