



In the Matter of:

**KAREN D. BILLINGS, On Behalf of
DOUGLAS E. BILLINGS, Deceased,**

**ARB CASE NOS. 98-070
98-071**

COMPLAINANT,

**ALJ CASE NOS. 92-ERA-53
93-ERA-46**

v.

DATE: July 15, 1998

TENNESSEE VALLEY AUTHORITY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER

These cases arise under the employee protection provision of the Energy Reorganization Act (ERA), 42 U.S.C. §5851 (1988 and Supp. V 1993). In view of the common evidence and issues presented, and in the interest of administrative economy, the cases are hereby **CONSOLIDATED** for the purpose of decision. *See Bonanno v. Stone & Webster Eng'g*, ARB Case Nos. 96-110, 165, ALJ Case Nos. 95-ERA-54, 96-ERA-7, Dec. 12, 1996, citing Fed. R. Civ. P. 42 (a), as made applicable by 29 C.F.R. §18.1(a) (1997) and Fed. R. Civ. P. 3(b).

On January 26, 1998, the presiding Administrative Law Judge (ALJ) issued similar Recommended Decision and Orders (R. D. & O.) in both cases dismissing the complaint in each with prejudice. The ALJ's decisions recommended that the complaints be dismissed on two grounds. First, the complaints failed to state a claim upon which relief could be granted under the ERA. Second, Complainant failed to comply with the ALJ's Orders to Show Cause why the complaint should not be dismissed for that reason. The ALJ's recommended decisions are affirmed.

BACKGROUND

These cases are part of a series of actions brought by the Complainant on behalf of her deceased husband's estate concerning Respondent's alleged retaliation against him in violation of the ERA. The facts of the causes of action in both of these cases are the same and are not in dispute. Complainant alleged that statements made by one of Respondent's employees to the Office of Worker's Compensation Programs regarding possible fraud committed by Complainant's husband resulted in his loss of benefits under the Federal Employees Compensation Act (FECA) and were in retaliation for his presumed protected activities.

The ALJ found that there is no authority to dispute FECA decisions under the ERA and Complainant failed to come forward with arguments to the contrary. The Complainant has likewise not responded to this Board's February 6 and 9, 1998 Orders establishing briefing schedules in these cases.

ORDER

Accordingly, we adopt the ALJ's recommendations and the complaints in these cases are **DISMISSED WITH PREJUDICE.**

SO ORDERED.

KARL J. SANDSTROM

Chair

PAUL GREENBERG

Member

CYNTHIA L. ATTWOOD

Acting Member