



Issue Date: 26 October 2004

Case No.: 2004-ERA-29

In the Matter of

**Adam P. McNiece,
Complainant**

v.

**Northeast Utilities, Corp.,
Respondent**

ORDER OF REMAND

On October 6, 2004, I issued an Order to Show Cause, directing that the Complainant, within ten days of the date of the Order, show cause as to why his claim should not be remanded to OSHA for investigation and determination on his claim that Respondent defaulted on the terms of a settlement agreement in connection with a January 4, 2000 claim by the Complainant. The Complainant has not filed a response.

As I noted in my Order to Show Cause, there is no indication in the file that the Complainant filed a complaint with OSHA in connection with his current claim that the Respondent has defaulted on a settlement agreement. The only documentation in the file is a copy of what appears to be a file from OSHA regarding a complaint that the Complainant filed against the Respondent on January 4, 2000, which he subsequently withdrew after the parties entered into a settlement. There is no indication that there was any investigation or recommendation by OSHA that resulted in the Complainant's filing of his current request for a hearing.

The regulations provide that whistleblower complaints under the Energy Reorganization Act are to be filed with OSHA for investigation and determination. 29 C.F.R. Sections 24.3, 24.4, and 24.5. Complaints of unlawful discrimination are not properly filed *de novo* with the Office of Administrative Law Judges.

Accordingly, IT IS HEREBY ORDERED that this matter is remanded to OSHA for investigation and determination on the Complainant's claim that the Respondent defaulted on the terms of a settlement agreement in connection with a January 4, 2000 claim, and for further proceedings as appropriate.

SO ORDERED.

A

LINDA S. CHAPMAN
Administrative Law Judge