

U.S. Department of Labor

Office of Administrative Law Judges
2 Executive Campus, Suite 450
Cherry Hill, NJ 08002

(856) 486-3800
(856) 486-3806 (FAX)



Issue Date: 26 May 2005

Case No.: 2005-LCA-00025

In the Matter of

**ADMINISTRATOR,
WAGE AND HOUR DIVISION**
Prosecuting Party

v.

COMPUTECH RESOURCES, INC.
Respondent

DECISION AND ORDER
DISMISSING THE CASE

On April 26, 2005 I issued an Order to Show Cause requiring Deepak Dahiya (“Dahiya”) and the Department of Labor (“DOL”) to show cause no later than May 23, 2005 why this matter should not be dismissed because no appeal from the December 13, 2004 determination of the Administrator was filed.

As noted in the Order to Show Cause, on December 13, 2004 the Assistant District Director, Employment Standards Administration of DOL issued a ruling of the Administrator in which Computech Resources, Inc. (“Employer”) was found to have violated the H-1B provisions of the Immigration and Nationalization Act, 8 S.S.C. § 1182(n) by failing to pay required wages to Dahiya and two other persons. The back wages found owing by Employer to the three H-1B workers, including Dahiya, totals \$27,820.00. There is no indication that an appeal was filed by Employer or anyone else. Nevertheless, this matter was docketed by the Office of Administrative Law Judges (“OALJ”) on March 25, 2005 (and subsequently assigned to me) based on the letter dated January 10, 2005 that Dahiya sent to OALJ. This letter states that Dahiya, who had filed a complaint against Employer on February 13, 2002, received DOL’s letter dated December 13, 2004 but had not received

further communication regarding my payment from my employer or the Department of Labor as to when and how payment will be made to me.

On March 31, 2005 I wrote to Diane Wade, Esq., Counsel for Employment Standards, Office of the Solicitor of Labor, stating it appears no appeal of the Administrator’s determination was filed and this matter does not belong with OALJ. In a telephone conversation with a member of my staff on April 20, 2005, Ms Wade stated that Employer has been paying the agreed backpay installments to the Department of Labor and that this matter does not belong

with OALJ. Ms. Wade also advised that she had forwarded Dahiya's current address and telephone number in India to DOL's Wage and Hour Division so that it could send Dahiya the backpay paid by Respondent and owed to Dahiya.

Dahiya responded to the Order to Show Cause by filing letters that were received by OALJ on April 25, 2005 that described DOL's finding that Employer owed back wages to Dahiya and two other H-1B workers. In addition, Dahiya complained that he had not received any payment of back wages owed to him.

DOL did not file a written response to the Order to Show Cause. However, on May 2, 2005 Ms. Wade left a telephone message with a member of my staff in which Ms. Wade stated that the Wage and Hour Division had sent Dahiya checks for his back wages and Dahiya had received the checks.

As no appeal from the determination of the Administrator was filed, I find that this matter was improvidently docketed by OALJ and should be dismissed.¹

Accordingly, this case is dismissed.

SO ORDERED.

A

Robert D. Kaplan
Administrative Law Judge

Cherry Hill, New Jersey

NOTICE OF APPEAL RIGHTS: Pursuant to 20 CFR § 655.845, any party dissatisfied with this Decision and Order may appeal it to the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210, by filing a petition to review the Decision and Order. The petition for review must be received by the Administrative Review Board within 30 calendar days of the date of the Decision and Order. Copies of the petition shall be served on all parties and on the administrative law judge.

¹ Indeed, the sole reason for Dahiya's current "complaint" is that he had not received the back wages awarded to him by DOL. As noted above, it appears that this problem has been rectified.