



Issue Date: 17 October 2007

CASE NO. 2007-STA-00028

In the Matter of:

ANN DORMAN,

Complainant,

vs.

CHINOOK CHARTER SERVICES,

Respondent.

Recommended Order Dismissing Claim

The Respondent, Chinook Charter Services, filed a motion to dismiss this employment retaliation claim that had been filed under the Surface Transportation Assistance Act, 49 U.S.C. § 31105. The Complainant, who is represented by counsel, has not responded to the motion, and the time to do so has expired. The dismissal request is predicated in large part on the Complainant's failure to file a pretrial statement by September 7, 2007, as the order of June 19, 2007 required.

The Complainant's lawyer stated by telephone on September 26, 2007 that the Complainant no longer wished to pursue the matter, and that the Respondent's lawyer had been notified of this decision.¹ The Complainant's lawyer stated a written confirmation of the withdrawal would be filed, but even after the lawyer's office was contacted again on October 9, 2007 seeking the withdrawal, none has been filed. By failing to file the prehearing statement, failing to respond to the Respondent's motion to dismiss, and failing to file the withdrawal papers after being contacted twice, the Complainant has functionally abandoned the request for hearing. See 29 C.F.R. § 1978.111(c)(2004) (a complainant may file a written withdrawal with the ALJ at any time before the findings or order become final); *see also, Berna v. USF Dugan, Inc.*, ARB No. 04-121, ALJ No. 2003-STA-7 (ARB Oct. 27, 2004).

To travel to Seattle, Washington to call the matter for trial when it is obvious the Complainant will not be prepared to go forward would be pointless, wasteful and needlessly require the Respondent to incur attorney's fees to attend.

¹ See the Sept. 26, 2007 memorandum to the file of the telephone contacts.

It is ordered that:

1. The trial set for October 25, 2007 in Seattle is cancelled;
2. The request for hearing is dismissed; and
3. The March 9, 2007 Finding by the Secretary of Labor that no employment discrimination had been shown is reinstated.

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William Dorsey
Administrative Law Judge

NOTICE OF REVIEW: The administrative law judge's Recommended Order Dismissing Claim, along with the administrative file, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Dismissing Claim, the parties may file briefs with the Administrative Review Board ("Board") in support of, or in opposition to, the administrative law judge's order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.