



In the Matter of

DELILAH WHITECLOUD AMERICAN
INDIAN COUNCIL, INC.

Date Issued: JUL 29, 1992

Case No.: 91-JTP-28

Complainant

versus

U.S. DEPARTMENT OF LABOR

Respondent

and

COUNCIL OF THREE RIVERS AMERICAN
INDIAN CENTER, INC..

Party-in-Interest

ORDER

On July 15, 1992, there was received in this office a letter from Jim L. Adcock who is a member of the Board of Directors of the Complainant. Mr. Adcock advises that his organization will not be appearing for the scheduled hearing of this case on September 9, 1992. Mr. Adcock offers as an explanation that the financial issue involved is now moot, that his organization's contentions are now already a matter of public record, and that other organizations have also conducted investigations which Mr. Adcock believes have supported the Complainant's contentions in this matter.

He then once again reiterates that the issue involved in this case has now been rendered moot and that the Complainant will use its limited funds with an eye toward activities in its 1993 budget year.

I accept the comments of Mr. Adcock as a request for dismissal of this proceeding.

Twenty C.F.R. Section 636.10(c) provides that the Rules of Practice and Procedure promulgated by the Office of Administrative Law Judges shall govern the conduct of hearings under this section. See 29 C.F.R Part 18. The Rules of Practice and Procedure do not provide specific direction for the dismissal of a case under these circumstances, but they do direct that the Federal Rules of Civil Procedure shall apply in any situation not provided for or controlled by these rules. 29

C.F.R. Section 18.1(a). The federal rules provide for dismissal of an action by way of the filing of a stipulation of dismissal signed by all parties who have appeared in the action. Fed. R. Civ. P. 41 (a) (1) (ii) .

Brian L. Haynes, was the the original counsel of record for the Complainant. However, on July 27, 1992, I granted his motion of withdrawal as counsel in this case. Therefore, the Complainant is no longer represented by counsel of record. Scott Glabman represents the U.S. Department of Labor in this proceeding. IT IS ORDERED that Mr. Glabman prepare a stipulation of dismissal signed by all parties and which complies in all respects with the requirements of Fed. R. Civ. P. 41(a)(1)(ii). That stipulation should be submitted to this office within thirty days from the date of this Order.

A copy of the letter of Jim L. Adcock dated July 7, 1992 is being attached to this Order for the benefit of all parties.

RUDOLF L. JANSEN
Administrative Law Judge