

U.S. Department of Labor

Office of Administrative Law Judges
36 E. 7th St., Suite 2525
Cincinnati, Ohio 45202

(513) 684-3252
(513) 684-6108 (FAX)



Issue Date: 28 July 2004

Case No.: 2004-TSC-0002

In the Matter of:

BRUCE BRUMMEL,
Complainant

v.

NICOR GAS COMPANY,
Respondent

RECOMMENDED ORDER OF DISMISSAL

This proceeding arises under § 23(a) of the Toxic Substances Control Act of 1986 (TSCA), 15 U.S.C. §§ 2622, *et seq.*, as amended, and the regulations promulgated thereunder at 29 C.F.R. Part 24, which are employee protective provisions of the TSCA. A hearing is scheduled to take place in Chicago, Illinois, on November 3, 2004, pursuant to a Notice of Hearing issued on May 28, 2004. The Notice of Hearing directed the parties to file "...on or before June 23, 2004, a statement listing the number of witnesses and the estimated length of the hearing." Neither party complied with the Order and on July 2, 2004, an Order to Show Cause was issued directing the parties to "...show cause, in writing, on or before July 16, 2004, why this matter should not be dismissed, or default judgment entered, or appropriate sanctions entered against either or both parties."

On July 15, 2004, the Respondent filed Nicor's Response to Order to Show Cause, in which the Respondent states that "{s}ince the facts and circumstances of claimant's claim in this matter are similar to the matter that was previously dismissed, Respondent believed that Claimant would also be dismissing this matter." The Respondent states that several attempts were made to contact Claimant's attorney to confirm that the Claimant would be dismissing his claim. The Respondent has been unable to confirm that this matter will be dismissed. The Respondent requests that the Rule to Show Cause be dismissed without sanctions. Respondent has also filed a Statement Pursuant to Paragraph 3 of Prehearing Order.

Upon consideration of the response of Nicor Gas Company, the Rule to Show Cause is satisfied as to the Respondent.

The Complainant, Bruce Brummel, has failed to respond to the Show Cause Order. Upon consideration of the record and the failure of the Complainant to comply with the Pretrial Order and Show Cause Order, it is, therefore,

ORDERED that the request for hearing is DISMISSED, the hearing scheduled for November 3, 2004, is CANCELLED, and the findings of the Secretary dated January 20, 2004, are reinstated and become the final Order in this matter.

A

Robert L. Hillyard
Administrative Law Judge

NOTICE: This Recommended Order of Dismissal will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C., 20210. Such a petition for review must be received by the Administrative Review Board within ten (10) business days of the date of this Recommended Order of Dismissal, and shall be served on all parties and on the Chief Administrative Law Judge. See 29 C.F.R. §§ 24.7(d) and 24.8.