

U.S. Department of Labor

Office of Administrative Law Judges
525 Vine Street, Suite 900
Cincinnati, Ohio 45202



Date Issued: August 15, 2000

Case No: 1997-DBA-17

In the Matter of

ADMINISTRATOR, WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Plaintiff

v.

CODY ZEIGLER, INC., FRANCIS D.
ZEIGLER, President, ROBERT D.
ZEIGLER, Vice President, JAMES A.
SWARTZMILLER, Vice President,
STANLEY C. CALDWELL, Vice President

Respondents

BEFORE: RUDOLF L. JANSEN
Administrative Law Judge

ORDER

The Decision and Order was entered in this case on April 7, 2000. In that Decision and Order, and based upon the request of counsel for both parties, the record in this case was held open forty-five (45) days from the date of issuance of the Decision in order to allow counsel to arrive at a joint stipulation of the dollar figures to be awarded based upon my disposition of all issues. On May 24, 2000, I granted the parties an additional thirty (30) days in which to complete the calculations and to prepare a stipulation. On June 26, 2000, I granted the parties an additional extension until July 10, 2000 for purposes of submitting the computations and stipulation. On July 10, 2000, I once again granted counsel yet another extension until July 31, 2000 in which to submit the back wage stipulation. On August 1, 2000, counsel for Plaintiff and on August 4, 2000, counsel for Respondents mailed to this office separate back wage computations. Both were untimely submitted. Neither of the submissions complies with the directive contained within the original Decision and Order that the parties "arrive at a joint stipulation of the dollar figures to be awarded based upon the above Order." The parties were also directed to prepare a Supplemental

Decision and Order for my signature based upon the stipulated figures. That also has not been done.

Attached to the most recent submission of Plaintiff, is a schedule itemizing specific amounts due each employee affected at both the Tuttle Crossing and Westerville Post Office projects. IT IS ORDERED within ten (10) days from the date of this Order, the Respondents will submit a statement which itemizes the following data:

1. Employee name and project for which an exception is taken to the Plaintiff computation;
2. The amount of any disagreement;
3. Factual findings concerning the individual entries, made in sufficient detail and noting their location in the record, so as to allow me to make findings and rule on this item;
4. A detailed statement of position on the item and a statement as to the basis upon which the Plaintiff's computation is alleged to be improper.
5. A statement of any legal proposition which supports the Respondent's position with respect to the individual entry;

References should not be made by Respondents to the attachments to their submission of August 4, 2000 since those computations fail to adequately address the basis for any of the contested items.

Failure of the Respondents to provide all of the information requested, or failure to respond to this Order in a timely fashion will result in the acceptance of the Plaintiff's computation with respect to all or any of the contested items. No extensions of time for responding will be granted.

Assuming a timely response is submitted by the Respondents to this Order, the Plaintiff will have ten (10) workdays within which to submit a rebuttal response containing the identical information requested of the Respondent. Failure to address any of the contested items, or failure to respond in a timely fashion, will result in the acceptance of the Respondents' computation.

Rudolf L. Jansen
Administrative Law Judge