



Issue Date: 12 December 2018

CASE NO.: 2018-AIR-00025

In the Matter of:

ARIPHENE JACKSON,
Complainant,

v.

AZ CFS, LLC,
Respondent,

And

DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS,
Party in Interest.

ORDER DISMISSING COMPLAINT AND CANCELING HEARING

This matter arises under the employee protection provisions of the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century ("AIR21" or "the Act"), 49 U.S.C. § 42121 et seq. and its implementing regulations found at 29 C.F.R. § 1979. Complainant Ariphene Jackson alleges that his reassignment, his change of work days/hours, and ultimately, his termination from the Respondent was in retaliation for raising concerns of airline safety. A hearing in the above-captioned matter is scheduled for January 14, 2019, in Atlanta, Georgia.

On October 12, 2018, Judge Johnson issued an Order Granting Respondent's Motion to Compel. On October 31, 2018, Respondent filed a Motion for Sanctions. Respondent argues dismissal of the current matter is warranted because Complainant failed to respond to the Court's Order requiring him to respond to Respondent's discovery requests, therefore, prejudicing the Respondent's ability to prepare a defense or to obtain a resolution. The current matter was reassigned to me on November 13, 2018. As of the date of this Order, Complainant has not filed a response, and the time for doing so has passed.

If a party fails to comply with a judge's order to provide discovery, the judge may issue further just orders, including:

- (1) Directing that the matters embraced in the order or other designated facts be taken as established for purposes of the proceeding, as the prevailing party claims;

- (2) Prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (3) Striking claims or defenses in whole or in part;
- (4) Staying further proceedings until the order is obeyed;
- (5) Dismissing the proceeding in whole or in part; or**
- (6) Rendering a default decision and order against the disobedient party.

20 C.F.R. § 18.57(b).

As Complainant did not file a response to Respondent's Motion for Sanctions, and the time for doing so has passed, I accept Respondent's factual representations as true. Accordingly, Complainant has failed to respond to Respondent's discovery requests, and has failed to respond to the Order Granting Motion to Compel.

Therefore, IT IS ORDERED that the complaint of Complainant, Ariphene Jackson, is **DISMISSED**, the Secretary's Findings are the final order of the Secretary, and the January 14, 2019, hearing is **CANCELLED**.

SO ORDERED.

LORANZO M. FLEMING
Administrative Law Judge

LMF/AME/jcb
Newport News, Virginia

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1979.110(a). In addition to filing your Petition for Review with the Board at the foregoing address, an electronic copy of the Petition may be filed by e-mail with the Board, to the attention of the Clerk of the Board, at the following e-mail address: ARB-Correspondence@dol.gov. Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. *See* 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. *See* 29 C.F.R. § 1979.110(a).

You must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board: (1) an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include: (1) an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies, unless the responding party expressly stipulates in writing to the adequacy of the appendix submitted by the petitioning party.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).