



**Issue Date: 31 January 2011**

**CASE NO: 2011-CPS-00001**

*In the Matter of:*

LAWRENCE IRVIN,  
*Complainant,*

v.

WHIRLPOOL CORPORATION,  
*Respondent.*

**ORDER GRANTING WITHDRAWAL OF OBJECTIONS AND DISMISSING CASE**

This proceeding arises under the employee protection provisions of the Consumer Product Safety Improvement Act of 2008, 15 U.S.C. § 2087 (“CPSIA” or “the Act”) and its implementing regulations found at 29 C.F.R. § 1983.

By letter dated November 6, 2010, the Complainant objected to the findings of the Occupational Safety and Health Administration, and the matter was forwarded for a hearing before an administrative law judge. By Order dated December 3, 2010, I directed the parties to meet and confer regarding the appropriate site and anticipated length of the requested hearing. By letter dated December 22, 2010, Complainant indicated that he had no attorney and was unsure about what the Order of December 3 had directed him to do.

In late December 2010, counsel for Employer requested a telephonic conference to discuss Complainant’s apparent wish to have this matter remanded to OSHA for further investigation. On January 4, 2011, I held such a conference, along with counsel for Employer and with Complainant. I advised Complainant that the applicable regulations do not permit remand for further investigation by OSHA, and that he could either (1) withdraw his objections to the OSHA findings and accept the OSHA determination, (2) request a hearing on the record without a formal hearing, or (3) continue with his request for hearing. I directed Complainant to submit his decision in writing to me with a copy to counsel for Employer. On January 26, 2011, because Complainant had not communicated his decision, I issued an order denying the request for remand and directing the parties to meet and confer regarding certain scheduling matters.

On January 27, 2011, I received a letter from Complainant dated January 16, 2011, in which he informed me that upon considering the options discussed during the January 4, 2011 telephone conference, he had decided to withdraw his objections to the OSHA findings. Accordingly, IT IS ORDERED:

1. Complainant's request to withdraw his objections to the OSHA findings is GRANTED;
2. The deadlines established in my Order of January 24, 2011 are VACATED; and
3. This matter is DISMISSED, and the OSHA determination becomes the final order of the Secretary.

**SO ORDERED.**

**A**

**PAUL C. JOHNSON, JR.**  
Administrative Law Judge

**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. 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 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. § 1983.110(a). 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. § 1983.110(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, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1983.110(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. §§ 1983.109(e) and 1983.110(a). 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. §§ 1983.110(a) and (b).