

U.S. Department of Labor

Office of Administrative Law Judges
2 Executive Campus, Suite 450
Cherry Hill, NJ 08002

(856) 486-3800
(856) 486-3806 (FAX)



Issue Date: 19 October 2012

Case No.: 2012-LCA-00059

In the Matter of

ADMINISTRATOR
WAGE AND HOUR DIVISION
Prosecuting Party

v.

WESTMOUNT PUBLISHING, INC.
Respondent

ORDER GRANTING REQUEST TO WITHDRAW REQUEST FOR HEARING;
AND DISMISSING CASE

This matter arises under the Immigration and Nationality Act (INA), H-1B visa program, 8 U.S.C. § 1101(a)(15)(H)(i)(b) and § 1182(n), and the implementing regulations promulgated at 20 C.F.R. § 655.700 *et seq.* On July 31, 2012, the Administrator, Wage and Hour Division, issued a Determination Letter in which back wages in the amount of \$5,393.67 were assessed, for one H-1B nonimmigrant. No civil money penalties were assessed.

On September 11, 2012, through counsel, the Respondent, Westmount Publishing, Inc., requested a hearing, pursuant to 20 C.F.R. § 655.820. By Order dated September 26, 2012, I set this matter for hearing.

By letter dated October 10, 2012, counsel for the Respondent stated that he was instructed to withdraw his letter of September 11, 2012.

Under the governing regulation, in the absence of a timely request for a hearing, the determination of the Administrator shall become final and is not appealable. 20 C.F.R. § 655.815(c)(3).

I find that the Respondent's request to withdraw counsel's letter of September 11, 2012, constitutes a request to withdraw the request for a hearing. I GRANT the request.

In the absence of a request for a hearing, the Administrator's determination is final and is not appealable. Therefore, this matter is DISMISSED. Accordingly, the hearing scheduled for November 29, 2012 in New York, New York is hereby CANCELLED.

SO ORDERED.

ADELE H. ODEGARD
Administrative Law Judge

Cherry Hill, New Jersey

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") that is received by the Administrative Review Board ("Board") within thirty (30) calendar days of the date of issuance of the administrative law judge's decision. *See* 20 C.F.R. § 655.845(a). The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file the Petition with the Board, you must serve it on all parties as well as the administrative law judge. *See* 20 C.F.R. § 655.845(a).

If no Petition is timely filed, then the administrative law judge's decision becomes the final order of the Secretary of Labor. 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* 20 C.F.R. § 655.840(a).