



Issue Date: 23 October 2009

BALCA Case No.: 2010-TLN-00003
ETA Case No.: C-09232-46269

In the Matter of:

EAGLE INDUSTRIAL PROFESSIONAL SERVICES,
Employer

Certifying Officer: William L. Carlson
Chicago National Processing Center

Before: **WILLIAM S. COLWELL**
Associate Chief Administrative Law Judge

ORDER OF DISMISSAL

On October 8, 2009, the Board of Alien Labor Certification Appeals (“BALCA” or “the Board”) received a letter from Eagle Industrial Professional Services (“the Employer”) requesting review in the above-captioned temporary labor certification matter. While the Certifying Officer (“the CO”) had not issued a final determination on the Employer’s application, the Employer requested that the Board require the CO to “immediately dismiss” his October 6, 2009, *Request for Further Information* (“RFI”) and “render a final decision in this case.” On October 13, 2009, the Board issued a *Notice of Docketing* directing the Associate Solicitor for Employment and Training Legal Services (“the Solicitor”) and the Employer to file briefs on the issue of whether BALCA has jurisdiction to review the issuance of an RFI under the 20 C.F.R. § 655.33 (2009).

On October 16, 2009, the Solicitor filed a letter explaining that, on October 13, 2009, the Certifying Officer received the Employer’s response to the October 6, 2009, RFI. Citing 20 C.F.R. § 655.33(a), the Solicitor characterized the Employer’s request for

review as premature because the CO had not issued a determination denying certification. The Solicitor urged BALCA to stay consideration of the matter until the CO completed adjudicating the Employer's application. The Solicitor added that the CO anticipated issuing the determination letter on either October 19 or October 20, 2009.

On October 19, 2009, the Employer filed a brief confirming that it had responded to the RFI and requesting that BALCA take under advisement its request for review until the close of business on October 20, 2009. The Respondent requested that, if the CO did not issue a final determination by that time, BALCA "exercise jurisdiction and grant the relief requested consistent with the arguments" made in its brief.

On October 21, 2009, the Employer filed a letter requesting that BALCA exercise jurisdiction because, as of the date of the filing, the CO had not issued a final determination. The Employer noted that the Federal Express shipping label it had provided for delivering the determination letter remained unused. On October 22, 2009, the Solicitor filed a letter explaining that the CO issued his final determination on the Employer's application on October 20, 2009. The Solicitor explained that the CO sent the Employer the determination letter by regular mail. Since the issuance of the CO's final determination on the application moots the Employer's request for review, it is hereby **ORDERED** that this matter is **DISMISSED**.

For the Board:

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WILLIAM S. COLWELL

Associate Chief Administrative Law Judge