

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 10 September 2012

Case Number: 2012-WIA-00003

In the Matter of:

EAGLE RIDGE INSTITUTE, INC.,

Complainant

v.

UNITED STATES DEPARTMENT OF LABOR,

Respondent.

DECISION AND ORDER

This case arises under the Workforce Investment Act (WIA), 29 U.S.C. §§ 2801 *et seq.*, and the implementing regulations at 20 C.F.R. Part 652; 20 C.F.R. Parts 660 through 670; and 29 C.F.R. Part 37. On December 29, 2011, the Grant Officer of the Employment and Training Administration, United States Department of Labor (“Respondent”) issued a Final Determination seeking repayment of grant funds after an audit. On January 18, 2012, Complainant filed an appeal with the Office of Administrative Law Judges (“Office”) seeking review of the Final Determination. This case was duly docketed on January 18, 2012.

On January 20, 2012, I issued a Notice of Receipt of Request for Hearing and Prehearing Order directing each party to file a Notice of Intent to Proceed with OALJ within (30) thirty days of the Order. The Notice also directed that within (45) of its issuance, both parties shall file a Prehearing Exchange detailing the issues in dispute, expected witnesses and evidence, and a possible location for the hearing, among other information. On April 20, 2012, the undersigned issued an Order to Show Cause after both Complainant and Respondent failed to submit a Notice of Intent to Participate or a Prehearing Exchange in a timely manner. The Order directed the parties to show cause within thirty (30) days as to why a default judgment should not be entered in this matter.

The Respondent filed Grant Officer’s Prehearing Statement on April 25, 2012. On May 18 2012, Complainant filed a request for extension of time to file a prehearing statement, which was unopposed by Respondent. According to Complainant, an extension until May 31, 2012 was necessary because Complainant’s counsel had an emergency that arose preventing her from timely finishing Complainant’s response. On May 22, 2012, I

issued an Order Granting Motion for Extension of Time to File Prehearing Statement in which I ordered Complainant to file a prehearing statement by May 31, 2012.

To date, Complainant has failed to file its Prehearing Exchange information. The regulations at 29 C.F.R. § 18.6 (d)(2)(v) provide that:

If a party or an officer or agent of a party fails to comply with a subpoena or with an order, . . . the administrative law judge, for the purpose of permitting resolution of the relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may . . . [r]ule that a pleading, or part of a pleading, or a motion or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the non-complying party, or both.

After reviewing the record and considering Complainant's failure to participate in this matter, it is hereby ORDERED that a Judgment by Default be entered against Complainant. From the record, the Administrative Finding remains uncorrected and Questioned Costs in the amount of \$40,787.00 are subject to Federal Debt Collection.

In light of the foregoing:

1. The Final Determination issued herein is AFFIRMED; and
2. This case is DISMISSED.

SO ORDERED,

STEPHEN L. PURCELL
Chief Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file exceptions ("Exception") with the Administrative Review Board ("Board") within twenty (20) days of the date of issuance of the administrative law judge's decision. *See* 20 C.F.R. § 667.830. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. Your Exception must specifically identify the procedure, fact, law, or policy to which exception is taken. You waive any exceptions that are not specifically stated. Any request for an extension of time to file the Exception must be filed with the Board, and copies served simultaneously on all other parties, no later than three (3) days before the Exception is due. *See* 20 C.F.R. § 667.830; Secretary's Order 1-2002, ¶4.c.(42), 67 Fed. Reg. 64272 (2002).

A copy of the Exception must be served on the opposing party. *See* 20 C.F.R. § 667.830(b). Within forty-five (45) days of the date of an Exception by a party, the opposing party may submit a reply to the Exception with the Board. Any request for an extension of time to file a reply to the Exception must be filed with the Board, and a copy served on the other party, no later than three (3) days before the reply is due. *See* 20 C.F.R. § 667.830(b).

If no Exception is timely filed, the administrative law judge's decision becomes the Final Decision and Order of the Secretary of Labor pursuant to 20 C.F.R. § 667.830(b) unless the Board notifies the parties within thirty (30) days of the date of issuance of the administrative law judge's decision that it will review the decision. Even if an Exception 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 filing of the Petition notifying the parties that it has accepted the case for review. *See* 20 C.F.R. § 667.830(b).