



In the Matter of:

**SOUTH FLORIDA CARPENTERS
REGIONAL COUNCIL, UNITED
BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA,
AFFILIATED LOCAL UNIONS 115,
123, 125, 130, 1026, 1554 AND 1641**

ARB CASE NO: 02-069

DATE: September 25, 2002

Dispute concerning wage determination
FL0001 for the payment of piledrivers and
wage determination FL020032 for the
payment of bridge carpenters.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD¹

Appearances:

For the Petitioner:

**Roger W. Wilkinson, Esq., Steven J. Mandel, Esq., Doug Davidson, Esq., U.S. Department
of Labor, Washington, DC**

For the Respondent:

Michael L. Johnson, Esq., South Florida Carpenters Regional Council, Haileah, Florida

FINAL ORDER DISMISSING APPEAL

The Petitioners, South Florida Carpenters Regional Council, United Brotherhood of Carpenters and Joiners of America, Affiliated Local Unions 115, 123, 125, 130, 1026, 1554, and 1641 have filed a petition for review pursuant to the Davis-Bacon Act (DBA), 40 U.S.C.A. §§ 276a – 276a-5 (West 2001), and its regulations at 29 C.F.R. Part 7. The Petitioners requested the Administrative Review Board (“Board”) to review two wage determinations issued by the Department of Labor’s Wage and Hour Division. In response, the Board issued a Notice of Appeal and Order Establishing Briefing Schedule. The Administrator of the Wage and Hour Division, U.S. Department of Labor, has moved the Board to dismiss Petitioner’s Petition for Review without prejudice, stating that “the matter is not ripe for review” because the Wage and Hour Division has

¹ This appeal has been assigned to a panel of two Board members, as authorized by Secretary's Order 2-96. 61 Fed. Reg. 19, 978 § 5 (May 3, 1996).

not issued a final ruling in this matter. Administrator's Motion to Dismiss the Petition for Review and to Suspend the Briefing Schedule (Adm. Mot.) at 1. The Administrator also requested the Board to suspend the briefing schedule until the Board rules on her Motion to Dismiss. *Id.*

On May 16, 2002, the Board issued an Order to Show Cause and Suspend the Briefing Schedule. The Board ordered the Petitioners to file "a response to the Administrator's Motion to Dismiss . . . no later than June 20, 2002, explaining why we should not dismiss their petition for review because it does not appeal a final ruling of Administrator, as required by 29 C.F.R. § 7.9(a)." The Petitioners have neither filed a response to the Board's order nor replied to the Board's attempts by telephone and facsimile to ascertain whether the Petitioners intended to file a response.

The applicable regulations governing practice before the Board with regard to Federal and Federally-assisted construction contracts provide that:

Any interested person seeking modification . . . in a wage determination under part 1 of this subtitle . . . and who has requested the administrative officer authorized to make such modification . . . and the request has been denied, after appropriate reconsideration shall have a right to petition for review of the action taken by that officer.

29 C.F.R. § 7.2 (2001). The regulations further provide, "[a]ny party or aggrieved person shall have a right to file a petition for review with the Board . . . within a reasonable time from any final decision in any agency action under part 1, 3, or 5 of this subtitle." 29 C.F.R. § 7.9(a). The Administrator contends in her Motion to Dismiss that "[b]ecause Wage and Hour has not received a request for reconsideration of the wage determinations from the Petitioners, it has not issued a final ruling in this matter." Adm. Mot at 2. We agree.

Accordingly, in light of the regulations quoted above and the Petitioners' failure to respond to the Order to Show Cause, we **DISMISS** the Petitioners' Petition for Review.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge