



In the Matter of

**INDIANA DEPARTMENT OF WORKFORCE
DEVELOPMENT,**

COMPLAINANT,

v.

UNITED STATES DEPARTMENT OF LABOR,

RESPONDENT.

ARB CASE NO. 98-155

ALJ CASE NO. 97-JTP-15

DATE: August 20, 1998

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER ASSERTING JURISDICTION AND
STAYING PROCEEDINGS BEFORE THE
ADMINISTRATIVE LAW JUDGE**

This case arises under the Job Training Partnership Act of 1982, as amended (JTPA or the Act), 29 U.S.C. §§ 1501-1791 (1994), and the regulations issued thereunder at 20 C.F.R. Parts 626-638 (1997). On August 12, 1998, the Department of Labor filed a Statement of Exception to an Order issued in this case by the Administrative Law Judge (ALJ) on July 21, 1998. In that Order, the ALJ refused to dismiss the case as requested by the parties. Specifically, the ALJ concluded that a Stipulation of Dismissal submitted by the parties did not fulfill the requirements of 29 C.F.R. §18.9(c) for dismissal based on a settlement between the parties.^{1/} Order at 2-3.

Upon consideration of the Statement of Exception filed by counsel for the Department of Labor, and pursuant to Section 166 of the JTPA, 29 U.S.C. §1576 (1994), we assert jurisdiction of this appeal^{2/} and stay the July 21, 1998 Order of the ALJ pending further order of the Board. The

^{1/} The Order indicates that the Stipulation of Dismissal was received by the ALJ on July 8, 1998. Order at unnumbered p.1. Documents filed with the Statement of Exception indicate that the Stipulation was signed by the parties on July 2, 1998.

^{2/} Although the Board is not bound by the "final decision" rule applicable to Article III courts, ordinarily we will not accept an appeal from an interlocutory order. See *Shelton v. Oak Ridge Nat'l Laboratory*, ARB No. 98-100, ALJ Case No. 95-CAA-19, June 22, 1998, slip op. (continued...)

Office of Administrative Law Judges shall forward the case record to the Board by August 26, 1998. Complainant may file a response to the Statement of Exception, not to exceed five pages, on or before August 28, 1998.

SO ORDERED.

PAUL GREENBERG

Member

CYNTHIA A. ATTWOOD

Acting Member

^{2/}(...continued)

at 2 and cases there cited. Even if we were to apply the final decision rule rigidly, however, the interlocutory order that is before us would qualify as an exception under the collateral order doctrine. *See generally Academy Geotechnical Engineering*, WAB Case No. 93-03, May 26, 1993, slip op. at 4 (applying collateral order doctrine to permit review of ALJ order setting aside a settlement agreement).