



IN THE MATTER OF:

SHERVIS R. SMITH,

ARB CASE NO. 18-021

COMPLAINANT,

ALJ CASE NO. 2017-STA-060

v.

DATE: June 29, 2018

KAREEM TRANSPORTATION,

and

SERPRO LOGISTICS,

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER DENYING SECOND MOTION FOR RECONSIDERATION

On February 21, 2018, the Administrative Review Board issued an Order Dismissing Appeal in this case arising under the whistleblower protection provisions of the Surface Transportation Assistance Act.¹ The Board ordered the case to be dismissed for **two reasons**: (1) because it was unclear from the documents that Complainant Smith filed with the Board, whether he intended to file a petition for review of an Administrative Law Judge's adverse decision in his case and (2) because Smith failed to respond to an Order to Show Cause ordering him to explain why the Board should accept his petition (if indeed he intended to file a petition), given that the documents filed were not filed within the limitations period for a timely appeal.

Upon review of Smith's filing, the Board found no basis for reconsidering the Order Dismissing Appeal. Smith submitted documents that he contends show that he should have

¹ 49 U.S.C.A. § 31105 (Thomson Reuters 2016) (STAA).

prevailed on the merits of his complaint. But the Board did not dismiss his complaint on its merits, so these documents do not support his request for reconsideration. Smith failed to address, much less explain, why the Board erred in dismissing his complaint because he failed to respond to the Order to Show Cause by demonstrating why the Board should accept his untimely filed petition for review. Accordingly we denied Smith's Motion for Reconsideration.

Again requesting reconsideration, Smith has submitted additional documents that he says support the merits of his case. As the Board previously informed Smith, the Board did not dismiss his case because he failed to prove his case, the Board dismissed his case because he failed to respond to its show cause order by demonstrating why the Board should consider his untimely filed appeal. The documents that he submitted to the Board that he believes establish why he should have won his case do not establish an entitlement to reconsideration because they do not address the relevant issue on which the Board decided his case, i.e., why the Board should accept his untimely appeal.

Furthermore, once again, Smith has failed to attach a certificate of service to his documents establishing that he has served them on Respondent and its counsel, the date of service, and the address at which they were served. The Board **will accept no further documents from Smith** unless they include the required certificate of service.

SO ORDERED.

JOANNE ROYCE
Administrative Appeals Judge

LEONARD J. HOWIE III
Administrative Appeals Judge