

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



IN THE MATTER OF:

**NORTHEAST NEBRASKA
ECONOMIC DEVELOPMENT
DISTRICT,**

ARB CASE NO. 2023-0044

DATE: September 15, 2023

PETITIONER,

v.

**ADMINISTRATOR, WAGE
AND HOUR DIVISION, UNITED
STATES DEPARTMENT OF LABOR**

RESPONDENT.

**Before HARTHILL, Chief Administrative Appeals Judge, and PUST,
Administrative Appeals Judge**

ORDER DISMISSING PETITION FOR REVIEW WITHOUT PREJUDICE

This case arises under the Davis-Bacon Act and Related Acts (DBRA) and its applicable implementing regulations.¹ This matter relates to Project No. 19 DTR-101 in Platte County, Nebraska. After the Department of Labor’s Wage and Hour Division (WHD) issued a Wage Decision related to Project No. 19 DTR-101,² Petitioner Northeast Nebraska Economic Development District (NENEDD) proposed an additional classification and wage rate for the position of “Glazier,” requesting a wage rate of \$25.00 per hour and \$6.30 per hour in fringe benefits.

On April 19, 2023, the WHD Section Chief for the Branch of Construction Wage Determinations (WHD Section Chief) issued a letter denying the requested wage rates and approving a conformed wage rate of \$37.26 per hour and \$17.76 per hour in fringe benefits for the Glazier classification (WHD Determination Letter).

¹ 40 U.S.C. §§ 3141-3148; 29 C.F.R. Parts 5 and 7.

² Wage Decision No. NE20230074 Mod 3.

On August 16, 2023, NENEDD filed a Petition for Review with the Administrative Review Board (Board) of the WHD Determination Letter.

On August 24, 2023, the Administrative Review Board (Board) ordered Petitioner to show cause no later than September 4, 2023, why this case should not be dismissed for lack of ripeness because the Administrator of WHD had not issued a final decision. As of the date of this Order, Petitioner has failed to respond.

The Board dismisses the Petition for Review without prejudice because Petitioner has failed to timely respond to the Order to Show Cause. The Board's authority to effectively manage its docket, including authority to require compliance with the Board's Orders, is necessary to achieve orderly and expeditious disposition of cases.³ The Board has authority to issue sanctions, including dismissal, for a party's failure to comply with the Board's orders and briefing requirements.⁴ Accordingly, in this case, the Board exercises its authority to manage its docket and dismisses the Petition for Review for failure to comply with the requirements of the Order to Show Cause.

For the foregoing reasons, we **DISMISS** the Petition for Review without prejudice.

SO ORDERED.



SUSAN HARTHILL
Chief Administrative Appeals Judge



TAMMY L. PUST
Administrative Appeals Judge

³ *Twyman v. TaxMasters, Inc.*, ARB No. 2011-0031, ALJ No. 2010-SOX-00055, slip op. at 2 (ARB Apr. 5, 2021) (citations and quotations omitted); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”).

⁴ *Twyman*, ARB No. 2011-0031, slip op. at 2.