

U.S. Department of Labor

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



IN THE MATTER OF:

SHANE A. HOPE,

COMPLAINANT,

v.

**PERFORMANCE FOOD SERVICE
CORP.,**

RESPONDENT.

ARB CASE NO. 2024-0031

ALJ CASE NO. 2023-STA-00080

ALJ LYSTRA A. HARRIS

DATE: April 30, 2024

Appearances:

For the Complainant:

Shane A. Hope; *Pro Se*; Cape Coral, Florida

For the Respondent:

Courtney M. Malveaux, Esq.; *Jackson Lewis P.C.*; Richmond, Virginia

Before WARREN and THOMPSON, Administrative Appeals Judges

ORDER OF ADMINISTRATIVE CLOSURE

PER CURIAM:

This case under the Surface Transportation Assistance Act of 1982 (STAA), as amended.¹ Shane A. Hope (Complainant) filed a complaint against Performance Food Service Corp. (Respondent) alleging Respondent violated the employee protection provisions of the STAA. On March 12, 2024, a United States Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order of Dismissal (D. & O.). In the D. & O., the ALJ noted that the parties failed to comply with the

¹ 49 U.S.C. § 31105(a), as implemented by the regulations at 29 C.F.R. Part 1978 (2023).

ALJ's pre-hearing directives, and both failed to appear for the prehearing conference.²

On March 18, 2024, Complainant filed a document that appeared to be a copy of the publicly available D. & O. with the Administrative Review Board (ARB or Board) using the Board's Electronic Filing and Service (EFS) System, and the case was administratively assigned ARB Case Number 2024-0031.³ The document did not identify any objections to the ALJ's conclusions or orders as required to constitute a petition for review under STAA's implementing regulations.⁴ In response, on March 26, 2024, the Board issued an Order directing Complainant to file a petition for review on or before April 5, 2024.⁵ The Order also advised Complainant that the Board was staying the matter pending a proper filing by Complainant.⁶

Complainant did not file a petition for review as ordered and, to date, the Board has received no filed response or any other communication from Complainant. Thus, no petition for review of the ALJ's D. & O. has been filed. Given Complainant's failure to respond to, and comply with, the Order, the stay is hereby lifted and the Board orders that this matter be administratively closed.⁷

² D. & O. at 2-3.

³ The Secretary of Labor has delegated authority to the ARB to consider petitions for review under the STAA. Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 85 Fed. Reg. 13186 (Mar. 6, 2020).

⁴ According to the STAA's implementing regulations, parties seeking review of an ALJ decision before the Board should "identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived." 29 C.F.R. § 1978.110(a).

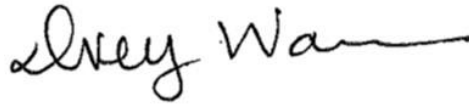
⁵ Order at 2.

⁶ *Id.*

⁷ See *Kovarik v. Groundwater & Env't Servs., Inc.*, ARB No. 2024-0024, ALJ No. 2023-PSI-00004, slip op. at 2 (ARB Feb. 16, 2024) (Notice of Administrative Closure) (administratively closing case because the complainant's filing did not constitute a petition for review).

If either party is dissatisfied with this Order of Administrative Closure, the dissatisfied party may file a reconsideration motion with the Board.⁸

SO ORDERED.



IVEY S. WARREN
Administrative Appeals Judge



ANGELA W. THOMPSON
Administrative Appeals Judge

⁸ The Board will reconsider an order only under limited circumstances. These circumstances include whether the movant has demonstrated: (i) material differences in fact or law from those presented to the Board of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the Board's decision, (iii) a change in the law after the Board's decision, or (iv) failure to consider material facts presented to the Board before its decision. *Kossen v. Empire Airlines*, ARB No. 2022-0004, ALJ No. 2019-AIR-00022, slip op. at 2 (ARB July 19, 2023) (Order Denying Reconsideration) (citation omitted).