U.S. Department of Labor

Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

DATE: May 1, 1996
CASE NO. 95-ERA-20

IN THE MATTER OF

ROBERT O. KLOCK,

COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY AND
UNITED ENERGY SERVICES CORP.,

RESPONDENTS.

BEFORE: THE SECRETARY OF LABOR

ORDER

This case arises under the employee protection provisions of the Energy Reorganization Act (ERA), 42 U.S.C. § 5851 (1988). The parties have requested a dismissal of the complaint with prejudice and submitted a Memorandum of Understanding and Agreement and a Joint Motion for Dismissal in support of such request.

Since the request for approval of the settlement is based on an agreement entered into by the parties, the Secretary must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 42 U.S.C. § 5851(b)(2)(A) (1988). *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Fuchko and Yunker v. Georgia Power Co.,* Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The Agreement's preamble indicates that payment has already been made to the Complainant for backpay, interest and employment benefits. Paragraph 1 indicates that a further payment is to be made for alleged damages, emotional distress, mental anguish, pain and suffering, humiliation, damage to professional reputation and attorney's fees and expenses. There is no indication as to the actual amount of money to be paid to the Complainant pursuant to the proposed settlement. The Secretary must know the amount Complainant will receive in order to determine if the settlement agreement is fair, adequate and reasonable. This amount

affects not only the Complainant's individual interest, but impacts on the public interest as well, because if the amount is not fair, adequate and reasonable, other employees may be discouraged from reporting safety violations. *See Plumlee v. Aleyeska Pipeline Service Co.,* 92-TSC-7, Sec. Dec. and Order, Aug. 6, 1993, slip op. at 5.

Likewise, the record does not specify the amount of attorney's fees to be paid. As long as the parties are in agreement as to the amount of the attorney's fees to be paid, it is not necessary for the Secretary to review the amount with the specificity usually required by the lodestar method. *Hensley v. Eckerhart,* 461 U.S. 424 (1983). If a dispute arises between the parties with regard to the appropriateness of the amount of attorney's fees, a subsequent order requiring an itemization of such fees may be necessary.

The parties are required to file a joint response to this Order within ten (10) days. If the parties cannot agree upon a joint response, Complainant's counsel is to submit the required information within ten (10) days from the issuance of this Order. Respondent may submit a response within fifteen (15) days of the issuance of this Order.

SO ORDERED.

For the Secretary of Labor

DAVID A. O'BRIEN
Director, Office of
Administrative Appeals[1/]

Washington, D.C.

[1/] This Order is issued pursuant to Secretary's Order 3-90, 55 Fed. Reg. 13,250 (Apr. 9, 1990).