U.S. Department of Labor   Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

In the Matter of:

DAVID L. SOMHORST,   ARB CASE NO. 97-083

         COMPLAINANT,   (ALJ CASE NO. 97-STA-4)

      v.   DATE: May 13, 1997

SILVER EAGLE TRANSPORT,

         RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER OF DISMISSAL

Before us for review is the Recommended Order of Dismissal issued on March 31, 1997 by the Administrative Law Judge (ALJ) in this case arising under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (1994). On April 11, 1997, the Board issued an Order to Show Cause why this matter should not be dismissed based on the following procedural history. On March 14, 1997, the ALJ issued an Order to Show Cause why the complaint should not be dismissed under 29 C.F.R. § 18.6(d)(2) because of Complainant's failure to comply with January 21, 1997 and March 4, 1997 prehearing orders concerning scheduling of a hearing. The ALJ's Order to Show Cause, addressed and sent via certified mail to Complainant, was returned to the ALJ on March 28, 1997 with the United States Postal Service's notation that the document was unclaimed by Complainant, despite two notifications of attempted delivery. The ALJ then issued his Order recommending that Case No. 97-STA-4 be dismissed with prejudice.

Neither Complainant nor Respondent has filed a response to the Board's April 11, 1997 Order to Show Cause. The record therefore fails to disclose circumstances explaining or excusing the parties noncompliance with the ALJ's and the Board's Orders to Show Cause. Therefore, the Board adopts the ALJ's Order of Dismissal. *Abdul Wahid Mohammad Ali v. Kresser Nationwide Truck Load Services*, Case No. 92-STA-11, Sec. Dec. June 15, 1992; *see also* 29 C.F.R. § 18.7, 18.29 (1996) (ALJs empowered to order submissions of prehearing statements and to issue orders

necessary to the conduct of fair and impartial hearings). The complaint is hereby dismissed.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member