

U.S. Department of Labor

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



IN THE MATTER OF:

SHEIDA HUKMAN,

ARB CASE NO. 2025-0003

COMPLAINANT,

ALJ CASE NO. 2023-FDA-00005

ALJ CHRISTOPHER LARSEN

v.

DATE: January 24, 2025

ED'S STATIONS, INC.,

RESPONDENT.

**Before WARREN, Acting Chief Administrative Appeals Judge, and
THOMPSON, Administrative Appeals Judge**

ORDER REESTABLISHING BRIEFING SCHEDULE

PER CURIAM:

This case arises under the employee protection provisions of the Food Safety Modernization Act (FSMA) and its implementing regulations.¹ Complainant Sheida Hukman, who is proceeding pro se, filed a whistleblower complaint against Respondent Ed's Stations, Inc. alleging that Respondent retaliated against her in violation of the FSMA. On October 2, 2024, Administrative Law Judge Christopher Larsen (ALJ) issued a Decision and Order in which he found that Complainant had engaged in protected activity, but the protected activity was not a contributing factor in Respondent's decision to fire Complainant. On October 11, 2024, Complainant filed a request for an extension of time to file a petition for review, which the Administrative Review Board (the Board) granted. On November 7, 2024, Complainant filed a petition for review.

On November 13, 2024, the Board issued a Notice of Appeal Acceptance and Briefing Order (Briefing Order). Under the terms of the Briefing Order,

¹ 21 U.S.C. § 399d; 29 C.F.R. Part 1987 (2024).

Complainant was required to file her Opening Brief within twenty-eight (28) days of the date of issuance of the Briefing Order (on or before December 11, 2024).

Complainant did not file an opening brief by this date and on December 17, 2024, the Board issued an Order to Show Cause requiring Complainant to explain why the Board should not dismiss the appeal for failure to file an Opening Brief as required by the Briefing Order. The Board ordered Complainant to file her response to the Order to Show Cause, as well as a copy of her opening brief, by December 31, 2024.

On December 31, 2024, Complainant filed a response to the Order to Show Cause, along with her Opening Brief. In her response, Complainant asserts that she either did not receive the Board's email² or that it was erased from her computer. Complainant alleges that her email account has been hacked by an individual named Laura Williams-Anderson and that documents, including some submitted by Complainant, have been altered or modified as a result.³ Complainant has not provided any evidence of this claim, and it strains credulity. We would encourage Complainant to avoid making similar allegations against non-parties unless she is able to provide evidence in support of such allegations. In her response, Complainant also noted that she timely filed her petition for review and complied with scheduling orders issued by the ALJ.

In order to control its docket and to promote the efficient disposition of its cases, the Board has the inherent power to dismiss a case due to a party's failure to prosecute.⁴ Pursuant to this authority, the Board may dismiss an appeal in a case in which the petitioner fails to comply with the Board's orders and briefing

² We presume Complaint is referring to the Briefing Order.

³ In his Decision and Order, ALJ Larsen noted that "[t]hroughout this matter, and throughout other legal proceedings Ms. Hukman has brought against other parties," Ms. Hukman repeatedly made allegations involving Laura Williams-Anderson. During these proceedings, Complainant has alleged that Laura Williams-Anderson stole her phone and bank account, is orchestrating a conspiracy to have Complainant terminated from various jobs, and that Williams-Anderson is able to make herself invisible. Decision and Order at 15-17. Complainant included similar unsubstantiated in her response to the Order to Show Cause.

⁴ *Knibb v. N.J. Transit Rail Ops., Inc.*, ARB No. 2023-0011, ALJ No. 2020-FRS-00078, slip op. at 4 (ARB Feb. 3, 2023) (citation omitted).

requirements.⁵ Nonetheless, the Board has recognized that “dismissal of an appeal for failure to file a brief is a very serious sanction and we do not take it lightly.”⁶

We conclude that dismissal of Complainant’s appeal is not an appropriate sanction at this time, for the following reasons. Although system records reflect that the Board’s electronic filing system (EFS) successfully generated and sent notice of the Briefing Order to Complainant’s registered email account on November 13, 2024, we accept Complainant’s representation that she did not see that notice in her email and did not learn of the Briefing Order at the time it was issued. Although Complainant missed the original briefing deadline, she complied with the Order to Show Cause by filing a timely response and opening brief. Considering these circumstances, and in recognition of Complainant’s status as a pro se litigant, we excuse Complainant’s tardiness in this instance and accept her opening brief.⁷

Going forward, Complainant is expected to strictly adhere to future deadlines, Board orders, and applicable rules of practice and procedure. Complainant is reminded that the Board has the authority to issue sanctions, including dismissal, for a party’s failure to comply with the Board’s orders and any future failure to comply with the Board’s orders may result in such sanctions.⁸ To ensure compliance with future deadlines and orders, Complainant is directed to regularly check the EFS system and to regularly check all folders of her email account for EFS notices that her email service provider may misdirect. We also direct Complainant to read the Board’s EFS pro se user guide⁹ and the Board’s rules of practice and procedure.¹⁰

⁵ *Id.*; see, e.g., *Andreski v. U.S. Marshals Serv.*, ARB No. 2024-0015, ALJ No. 2023-CAR-00002, slip op. at 3 (ARB Apr. 22, 2024); *Cooley v. Misa Imports Inc.*, ARB No. 2025-0005, ALJ No. 2024-SOX-00037, slip op. at 2 (ARB Dec. 19, 2024).

⁶ *Bidwai v. Bd. of Educ. of Prince George’s Cnty.*, ARB No. 2012-0072, ALJ No. 2011-LCA-00029, slip op. at 3 (ARB Oct. 11, 2012); see also *Xanthopoulos v. Mercer Inv. Consulting*, ARB No. 2022-0032, ALJ No. 2021-SOX-00017, slip op. at 3 (ARB June 30, 2022) (Order Reestablishing Briefing Schedule) (“We recognize that dismissal of an appeal or a complaint is a serious sanction which should not be taken lightly.”).

⁷ See *Xanthopoulos*, ARB No. 2022-0032, slip op. at 3 (recognizing that a complainant’s status as a pro se litigant weighs against dismissal as a sanction for failure to comply with a briefing order).

⁸ *Knibb*, ARB No. 2023-0011, slip op. at 4.

⁹ See <https://efile.dol.gov/system/files/2023-10/user-guides-for-public-individuals-v4.pdf>.

¹⁰ 29 C.F.R. Part 26, <https://www.dol.gov/agencies/arb/resources/rules>.

The briefing schedule is reestablished and amended, as follows:

RESPONSE BRIEF: Within twenty-eight (28) calendar days from the date of this Order, Respondent must file with the Board any response brief in opposition to Complainant's opening brief, not to exceed fifty (50) double-spaced pages.

REPLY BRIEF: Within fourteen (14) calendar days of the service of a legal brief in opposition to Complainant's opening brief, Complainant may file with the Board a reply brief not to exceed twenty (20) double-spaced pages.

In all other respects, the Board's Notice of Appeal and Order Establishing Briefing Schedule remains in effect.

SO ORDERED.

IVEY S. WARREN
Acting Chief Administrative Appeals Judge

ANGELA W. THOMPSON
Administrative Appeals Judge