

U.S. Department of Labor

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



IN THE MATTER OF:

ERIC JOHNSON,

ARB CASE NO. 2025-0023

COMPLAINANT,

ALJ CASE NO. 2024-STA-00092

ALJ HEATHER C. LESLIE

v.

DATE: May 16, 2025

INPAX SHIPPING SOLUTIONS,

RESPONDENT.

Appearances:

For the Complainant:

Eric Johnson; *Pro Se*; Atlanta, Georgia

For the Respondent:

Leonard Wright; *Inpax Shipping Solutions*; Atlanta, Georgia

**Before JOHNSON, Chief Administrative Appeals Judge, and THOMPSON,
Administrative Appeals Judge**

DECISION AND ORDER DISMISSING PETITION FOR REVIEW

PER CURIAM:

This case arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982 and its implementing regulations.¹ On December 4, 2024, a United States Department of Labor Administrative Law Judge (ALJ) issued an Order Dismissing Complaint. Eric Johnson (Complainant) appealed the ALJ's Order Dismissing Complaint to the Administrative Review Board (ARB or Board). For the reasons stated below, we dismiss Complainant's Petition for Review.

¹ 49 U.S.C. § 31105(a); 29 C.F.R. Part 1978 (2024).

BACKGROUND

Inpax Shipping Solutions (Respondent) terminated Complainant's employment on December 8, 2023.² On or about June 8, 2024, Complainant filed a complaint with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) alleging that his termination violated the STAA.³ OSHA dismissed the complaint finding no evidence of protected activity and no justification to toll the filing deadline.⁴ On July 9, 2024, Complainant appealed the OSHA dismissal to the Office of Administrative Law Judges (OALJ).⁵

On November 14, 2024, the ALJ held a status conference with the parties.⁶ At the status conference, Respondent raised its affirmative defense that Complainant did not timely file his complaint within 180 days of the adverse action.⁷ Accordingly, the ALJ issued an Order to Show Cause ordering Complainant to show cause why the claim should not be dismissed for failure to timely file a complaint within 180 days of the adverse action.⁸ Complainant submitted a response and a revised response to the Order to Show Cause.⁹ The ALJ reviewed Complainant's responses and dismissed his complaint because the OSHA complaint was untimely filed and equitable tolling did not apply.¹⁰

On December 14, 2024, Complainant filed a Petition for Review with the Board. On December 31, 2024, the Board issued a Notice of Appeal Acceptance, Electronic Filing Requirements, and Briefing Order (Briefing Order). Under the terms of the Briefing Order, Complainant was ordered to file his Opening Brief within twenty-eight (28) days of the date of issuance of the Briefing Order (on or

² Order Dismissing Complaint at 1.

³ *Id.*

⁴ *Id.*

⁵ Notice of Docketing at 1.

⁶ Order Dismissing Complaint at 1.

⁷ *Id.*

⁸ *Id.* at 1-2.

⁹ *Id.* at 2.

¹⁰ *Id.* at 6.

before January 28, 2025).¹¹ Complainant did not submit an opening brief as ordered.

Consequently, on February 12, 2025, the Board issued an Order to Show Cause ordering Complainant to explain why the Board should not dismiss the appeal for failing to timely file an opening brief.¹² On March 12, 2025, the Board issued a Second Order to Show Cause (Second Order) because the tracking information for the certified mailing of the Order to Show Cause indicated that it was not delivered to Complainant's mailing address of record.¹³ In the Second Order, the Board reiterated its previous instructions from the Order to Show Cause, ordered Complainant to respond to the Second Order and file his opening brief within fourteen calendar days (on or before March 26, 2025), and cautioned Complainant that failure to comply may lead to dismissal without further notice.¹⁴

On March 24, 2025, Complainant sent the Board an email requesting a month extension to obtain an attorney. Before the Board could respond to Complainant's extension request, on March 27, 2025, Complainant filed two untimely documents as new appeals, one entitled "Just Cause" and another entitled "Briefing,"¹⁵ respectively.¹⁶

On April 7, 2025, the Board issued an Order Granting, In Part, Extension of Time (Order Granting Extension) for Complainant to obtain counsel and submit a revised response to the Second Order and opening brief within fourteen (14) calendar days. In the Order Granting Extension, the Board: (1) advised that it reviewed Complainant's March 27 filings; (2) determined neither filing discussed Complainant's "just cause" for failing to file a timely opening brief nor the perceived

¹¹ Briefing Order at 4.

¹² Order to Show Cause at 2.

¹³ Second Order at 2. The Board also sent a courtesy copy of the Order to Complainant via email to the email address on file.

¹⁴ *Id.*

¹⁵ Although Complainant's "Just Cause" and "Briefing" filings are dated March 26, 2025, Complainant did not file these documents to the Board's Electronic Filing and Service (EFS) system until March 27, 2025.

¹⁶ The Office of the Clerk of the Appellate Boards rejected these filings as new appeals, but uploaded them in Complainant's pending appeal, ARB No. 2025-0023.

errors in the ALJ's Order Dismissing Complaint;¹⁷ and (3) noted that it would consider the March 27 filings for Complainant's appeal if Complainant did not obtain counsel and/or did not submit a revised response and opening brief within fourteen calendar days.¹⁸

JURISDICTION AND STANDARD OF REVIEW

The Secretary of the Department of Labor has delegated to the Board the authority to review ALJ decisions under STAA.¹⁹ The Board reviews an ALJ's determinations on procedural issues under an abuse of discretion standard.²⁰

DISCUSSION

As of the date of this Order, Complainant has not notified the Board that he obtained counsel or filed a revised response to the Second Order or a revised opening brief as per our instructions in the Order Granting Extension. Because Complainant failed to file a revised response or brief, the Board considers the March 27 filings as Complainant's response to the Second Order as per the Order Granting Extension.

¹⁷ The Board suggested that the revised opening brief should address whether the ALJ erred in determining that Complainant's complaint with OSHA was untimely filed and that equitable tolling does not apply. Second Order at 3.

¹⁸ The Board attempted to serve the Order Granting Extension via certified mail to Complainant's mailing address of record. However, the Board notes that the tracking information indicates that it has not been delivered to the mailing address of record. Additionally, the Board attempted to send a courtesy copy of the Order Granting Extension via email to Complainant's email address on file. Despite repeated attempts, delivery to the email address failed and the message was not delivered. In any event, the full amount of time Complainant requested for an extension has passed, and the Board has not received any other filings or responses from Complainant.

¹⁹ Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretary's discretionary review of ARB decisions)), 85 Fed. Reg. 13,186 (Mar. 6, 2020).

²⁰ *Miller v. Rhino, Inc.*, ARB No. 2024-0002, ALJ No. 2021-STA-00041, slip op. at 6 (ARB July 18, 2024) (citations omitted).

“The Board has the ‘inherent authority to effectively manage its docket’ to ‘achieve orderly and expeditious disposition of cases.’”²¹ Pursuant to this authority, the Board may dismiss a complaint in a case in which the complainant failed to adequately explain their failure to comply with the Board’s briefing schedule.²²

Complainant has not shown good cause for failing to file a timely opening brief. Instead, Complainant’s “Just Cause” filing discusses the following: (1) legal grounds for termination; (2) exceptions to at-will employment; and (3) the merits of his case.²³ Similarly, Complainant’s “Briefing” filing discusses the following: (1) contract violations and surety bond issues; (2) unlawful payroll deductions; (3) unfair termination practices and due process concerns; (4) defamation and false information accusations; and (5) training and compliance failures.²⁴ In either filing, Complainant does not articulate good cause or excuse for missing the original briefing deadline.

And, even if the Board found good cause to accept the untimely brief, Complainant’s filings do not address the perceived errors in the ALJ’s Order Dismissing Complaint. A STAA complaint must be filed within 180 days after an alleged violation of the STAA occurred.²⁵ Respondent terminated Complainant’s employment on December 3, 2023.²⁶ Complainant did not file his complaint with OSHA until June 8, 2024, beyond the 180-day statute of limitations.²⁷ The ALJ properly determined the complaint was untimely filed and no equitable tolling principles applied.²⁸

²¹ *Johnson v. Shamrock Trucking*, ARB No. 2024-0056, ALJ No. 2024-STA-00019, slip op. at 2 (ARB Sept. 27, 2024) (citing *Collins v. Next Mktg., Inc.*, ARB No. 2023-0057, ALJ No. 2023-STA-00003, slip op. at 2 (ARB Oct. 24, 2023)).

²² *Alston v. HH Xpress LLC*, ARB No. 2022-0011, ALJ No. 2021-STA-00065, slip op. at 3 (ARB May 6, 2022) (citing *Novick v. Morgan Stanley Smith Barney, LLC*, ARB No. 2021-0024, ALJ No. 2020-SOX-00026, slip op. at 4 (ARB July 16, 2021)).

²³ Just Cause at 1-2.

²⁴ Briefing at 1-2.

²⁵ 29 C.F.R. § 1978.103(d).

²⁶ Order Dismissing Complaint at 1.

²⁷ *Id.*

²⁸ *Id.* at 6.

Complainant has not provided a sufficient explanation as to why he did not file a timely brief. Given Complainant's repeated failures to respond to the Board's orders, Complainant's appeal is dismissed.

CONCLUSION²⁹

Accordingly, we **DISMISS** Complainant's Petition for Review.

SO ORDERED.

RANDEL K. JOHNSON
Administrative Appeals Judge

ANGELA W. THOMPSON
Administrative Appeals Judge

²⁹ In any appeal of this Decision and Order that may be filed, we note that the appropriately named party is the Secretary, Department of Labor (not the Administrative Review Board).