

U.S. Department of Labor

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



IN THE MATTER OF:

TESIA THOMAS,

ARB CASE NO. 2023-0055

COMPLAINANT,

ALJ CASE NO. 2023-WPC-00004

ASSOCIATE CHIEF

v.

ALJ CARRIE BLAND

**DUPONT SPECIALTY PRODUCTS
USA, LLC and ON-BOARD SERVICES,
INC.,**

DATE: February 19, 2025

RESPONDENTS.

Appearances:

For the Complainant:

Tesia Thomas; *Pro Se*; Mentor, Ohio

For the Respondents:

**James P. Verdi, Esq.; *Jackson Lewis, P.C.*; Cleveland, Ohio; Patrick
W. Dennison, Esq.; *Fisher & Phillips, LLP*; Pittsburgh, Pennsylvania;
and M. Robin Repass, Esq.; *Fisher & Phillips, LLP*; Washington,
District of Columbia**

Before THOMPSON and ROLFE, Administrative Appeals Judges

DECISION AND ORDER

THOMPSON, Administrative Appeals Judge:

This case arises from a complaint filed by Tesia Thomas (Complainant) against DuPont Specialty Products, LLC and On-Board Services Inc. (Respondents), alleging retaliation in violation of the whistleblower protection provisions of the

Clean Air Act (CAA),¹ the Federal Water Pollution Control Act (FWPCA),² and the Toxic Substances Control Act (TSCA),³ and their implementing regulations at 29 C.F.R. Part 24.⁴ On September 22, 2023, the Administrative Law Judge (ALJ) dismissed the complaint finding that it was untimely under each applicable statutory deadline, and that Complainant did not establish a basis to equitably modify the filing deadline. For the following reasons, we affirm the ALJ's Order Dismissing Claim (Order).

BACKGROUND

On March 21, 2022, Complainant filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging that DuPont Specialty Products, LLC (DuPont) suspended her employment in retaliation for raising a safety concern about a leaking fume hood and for a safety complaint with OSHA.⁵ The on-line complaint form described the hazard as “fume hood stack is leaking a possible sulfuric acid solution.”⁶ Complainant noted that at least four employees were threatened by this hazard.⁷

In an OSHA intake interview statement given on March 23, 2022, Complainant indicated that she was concerned about the secrecy around the fume hoods and leaking duct work because it was a “potential safety hazard.”⁸ She recounted that on March 21, 2022, she went to work and saw that the leaking fume hood was unlocked.⁹ Complainant explained that she locked out the fume hood, contacted OSHA, and emailed Breton Lutz (Lutz), quality manager, to inform him that she had filed a “safety complaint with OSHA.”¹⁰ DuPont subsequently removed her from its facility, and On-Board Services Inc (On-Board) suspended her employment.¹¹ On April 11, 2022, On-Board terminated Complainant's

¹ 42 U.S.C. § 7622.

² 33 U.S.C. § 1367.

³ 15 U.S.C. § 2622.

⁴ 29 C.F.R. Part 24 (2024).

⁵ Order at 1. OSHA assigned the Complaint Number #43228292. *See* March 21, 2022 OSHA complaint

⁶ March 21, 2022 OSHA complaint form.

⁷ *Id.*

⁸ March 23, 2022 intake interview statement.

⁹ *Id.*

¹⁰ *Id.*

¹¹ January 12, 2023 OSHA determination letter.

employment.¹² On April 12, 2022, Complainant amended her March 21, 2022 OSHA complaint to allege that her termination from employment was also retaliatory.¹³

In a January 12, 2023 determination letter, OSHA dismissed the complaint under Section 11(c) of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. § 660(c), finding that Complainant did not engage in protected activity when she locked-out the fume hood on March 21, 2022, prior to filing a safety complaint with OSHA.¹⁴ It explained that DuPont had made repairs to the fume hood that resolved the leak and had re-inspected the fume hood after Complainant asserted it was still leaking.¹⁵ OSHA also noted that on April 7, 2022, it had inspected the fume hood and conducted air sampling for sulfuric acid, which showed no hazardous exposure.¹⁶ Complainant did not appeal the January 12, 2023 OSHA determination letter.¹⁷

On May 4, 2023, Complainant filed a new complaint alleging similar facts as in her April 12, 2022 amended complaint and specifically requesting all remedies under the CAA, FWPCA, and TSCA.¹⁸ She described that on or around March 18, 2022, she asked Lutz about the chemical substance leaking from the fume hood and Lutz informed her that he assumed it was “some sort of sulfuric acid solution.”¹⁹ Complainant indicated that on March 21, 2022, she saw that the fume hood was unlocked and still leaking so she locked the hood.²⁰ She reported that she immediately filed with OSHA and emailed Lutz to let him know that she filed a “safety complaint with OSHA.”²¹

¹² *Id.*; Order at 1-2.

¹³ Order at 1-2.

¹⁴ January 12, 2023 OSHA determination letter; Order at 2.

¹⁵ January 12, 2023 OSHA determination letter.

¹⁶ *Id.*

¹⁷ Order at 5. Complainant alleged before the ALJ that she appealed the dismissal of her Section 11(c) whistleblower complaint. *See* May 24, 2023 request for a hearing before the OALJ. Complainant, however, has provided no evidence, such as a copy of the appeal letter or acknowledgement of receipt of the appeal letter, to verify her allegation. Accordingly, the evidence supports the ALJ’s determination that Complainant did not “seek review of the Secretary’s Findings as to that complaint.” Order at 5.

¹⁸ Order at 2. Although the May 2023 OSHA complaint is dated on the signature line as May 22, 2023, the ALJ noted a filing date of May 4, 2023. Order at 2 n.1.

¹⁹ May 4, 2023 OSHA complaint.

²⁰ *Id.*

²¹ *Id.*

In a determination letter issued in May 2023, OSHA found that the May 4, 2023 complaint was not filed within 30 days of the alleged adverse action, and thus, was untimely under the CAA, FWPCA, and TSCA.²² It also determined that the evidence of record did not support tolling of the statute of limitations.²³ OSHA further noted that Complainant had previously filed an OSHA complaint on March 21, 2022, which was dismissed.²⁴ It indicated that on May 4, 2023, Complainant alleged the above named environmental statutes should have been associated with the March 21, 2022 complaint.²⁵ OSHA explained that “there was no evidence available in the complaint to support filing under the identified statutes.”²⁶ Accordingly, it dismissed the May 4, 2023 complaint as untimely filed.²⁷

On May 24, 2023, Complainant requested a hearing before the Office of Administrative Law Judges (OALJ).²⁸ DuPont subsequently requested that the assigned ALJ dismiss the claim arguing that the complaint was untimely filed, and that none of the grounds to justify tolling of the statute of limitations applied.²⁹ Complainant thereafter filed several responses arguing that her whistleblower retaliation claim under the specified environmental statutes was timely and that OSHA failed to docket the previous complaint for the applicable environmental statutes.³⁰

In a September 22, 2023 Order, the ALJ found that the May 4, 2023 complaint was untimely under the CAA, FWPCA, and TSCA, and that Complainant did not establish a basis to equitably toll the filing deadline.³¹ She determined that because Complainant was required to file her retaliation complaint by May 11, 2022 in order to be timely under the CAA, FWPCA, and TSCA, her complaint was

²² Order at 2. OSHA’s second determination letter is dated April 19, 2023. As this date is prior to the May 4, 2023 complaint, the ALJ assumed this date discrepancy was scrivener’s error. Order at 2 n.1. We will refer to OSHA’s second determination letter as the May 24, 2023 determination letter as May 24, 2023 was the date that Complainant filed a request for a hearing before the OALJ.

²³ May 24, 2023 OSHA determination letter.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Order at 2.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 5, 7.

untimely under each applicable statutory deadline.³² The ALJ acknowledged that Complainant had previously timely filed a complaint with OSHA in March 2022.³³ She further noted that Complainant did not request a review of OSHA’s findings regarding the March 2022 complaint and that the “the complaint that initiated this matter before me is distinct.”³⁴ The ALJ also found that Complainant had not expressly alleged any of the four grounds to justify equitable estoppel or equitable tolling and determined that Complainant had failed to demonstrate that she was entitled to equitable modification of the statutory deadlines in this case.³⁵

This appeal followed. We affirm.

JURISDICTION AND STANDARD OF REVIEW

The Secretary of Labor has delegated authority to the ARB to issue final agency decisions for the Department in cases brought under the TSCA, the CAA, and the FWCPA.³⁶ The ARB reviews de novo an ALJ’s grant of a motion to dismiss.³⁷

DISCUSSION

1. Complainant’s May 4, 2023 Complaint Was Untimely

A complainant pursuing a whistleblower claim under the CAA, FWPCA, and TSCA, must meet certain deadlines.³⁸ These deadlines apply whether the

³² *Id.* at 5.

³³ *Id.*

³⁴ *Id.* at 5-6.

³⁵ *Id.* at 7.

³⁶ 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).

³⁷ *Martin v. Paragon Foods*, ARB No. 2022-0058, ALJ No. 2021-FDA-00001, slip op. at 5 (ARB June 8, 2023) (citing *Johnson v. The Wellpoint Cos., Inc.*, ARB No. 2011-0035, ALJ No. 2010-SOX-00038, slip op. at 5 (ARB Feb. 25, 2013)); *see also Boyd v. EPA*, ARB No. 2010-0082, ALJ No. 2009-SDW-00005, slip op. at 2-3 (ARB Dec. 21, 2011) (“[T]he granting of a motion to dismiss is a legal conclusion that we review de novo”).

³⁸ 29 C.F.R. § 24.103(d).

complainant is represented by counsel or is proceeding pro se.³⁹ Any employee who believes that they have been discharged or otherwise discriminated against in violation of the CAA, FWPCA, or the TSCA, “may, within thirty days after such violation occurs,” file a complaint with the Secretary of Labor.⁴⁰ The implementing regulation further specifies that such an employee may file a complaint alleging retaliation “within 30 days after an alleged violation” of the CAA, FWPCA, or the TSCA occurs.⁴¹

It is undisputed that Complainant did not timely file her complaint under the environmental statutes. Complainant’s employment was terminated on April 11, 2022, yet she waited over a year until May 4, 2023 to file her OSHA whistleblower retaliation complaint under the environmental statutes. Since Complainant failed to file her whistleblower complaint under the environmental statutes with OSHA within 30 days of the termination of her employment, we affirm the ALJ’s conclusion that Complainant’s May 4, 2023 complaint was untimely.⁴²

2. Complainant Has Not Established That She Was Entitled to Equitable Modification of the Filing Deadline

Under statutes where the filing period is not jurisdictional, the requirement is subject to “waiver,” “equitable estoppel,” and “equitable tolling.”⁴³ Waiver is not at issue in this case. Equitable tolling and estoppel are two distinct doctrines that courts have applied to modify a filing deadline.⁴⁴ Equitable tolling refers to

³⁹ *Jeanty v. Lily Transp. Corp.*, ARB No. 2019-0005, ALJ No. 2018-STA-00013, slip op. at 12 (ARB May 13, 2020) (citing *Garrett v. Selby Connor Maddux & Janer*, 425 F. 3d, 836, 840 (10th Cir. 2005)) (A complainant is “not excused from the rules of practice and procedure applicable to this proceeding merely because of his [or her] pro se status.”); *see also Phox v. The Savoy at 21C*, ARB No. 2021-0057, ALJ No. 2019-FDA-00014, slip op. at 3, n.9 (ARB Jan. 6, 2022) (“While the Board does provide a degree of latitude to *pro se* complainants, we also ‘must be able to impose appropriate sanctions . . . when they fail to comply with the . . . procedures in the administrative process . . .’”) (citation omitted).

⁴⁰ *See* 42 U.S.C. § 7622(b)(1) (CAA); 33 U.S.C. §1367(b)(1) (FWPCA); and 15 U.S.C. § 2622(b)(1) (TSCA).

⁴¹ 29 C.F.R. § 24.103(d)(1).

⁴² *See Hanna v. Global Nuclear Fuel-Americas, LLC*, ARB No. 2023-0015, ALJ No. 2020-ERA-00004, slip op. at 7 (ARB Mar. 19, 2024).

⁴³ *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385, 393-94 (1982); *accord Wilkins v. United States*, 598 U.S. 152, 161 (2023) (citation omitted); *see also Boechler, P.C. v. Comm’r of Internal Revenue*, 596 U.S. 199, 209 n.1 (2022) (equitable tolling is not limited to Article III courts) (citations omitted).

⁴⁴ *Mehrotra v. Gen. Elec. Co.*, ARB No. 2022-0060, ALJ No. 2022-SOX-00014, slip op. at 8 (ARB Sept. 21, 2023) (citing *Martin*, ARB No. 2022-0058, slip op. at 8).

circumstances equitably excusing the complainant's inability to meet a deadline.⁴⁵ Equitable tolling may be appropriate, for example, when the complainant has raised the precise statutory claim in issue but has done so in the wrong forum, when the movant has some excusable ignorance of the employer's discriminatory act, or when the complainant has in some extraordinary way been prevented from filing.⁴⁶ "Equitable estoppel, in contrast, examines the [employer or other] defendant's conduct and the extent to which the [complainant] has been induced to refrain from exercising his rights."⁴⁷ Equitable estoppel may be appropriate, for example, when the employer has actively misled the complainant regarding the cause of action or where the employer's own acts or omissions have lulled the complainant into foregoing prompt attempts to vindicate his or her rights.⁴⁸

The Board has recognized that "equitable relief from limitations periods is 'typically extended . . . only sparingly.'"⁴⁹ The party seeking equitable relief bears the burden of establishing the need to apply equitable modification principles.⁵⁰

Regarding equitable tolling, Complainant does not and cannot argue that she was unable to timely file her May 4, 2023 claim because she was previously unaware of Respondent's allegedly discriminatory conduct. Record evidence demonstrates that Complainant was in no way prevented from filing a timely claim under the environmental statutes because she did, in fact, file a timely safety complaint with OSHA on March 21, 2022, regarding Respondent's allegedly discriminatory conduct, which serves as the factual basis for her current complaint.⁵¹ Thus, modification under an equitable tolling theory is not warranted. Regarding equitable estoppel, Complainant does not argue that the employer actively misled her or lulled her into sleeping on her rights, nor did she introduce any evidence from which such a conclusion could be drawn. Accordingly, we find

⁴⁵ *Martin*, ARB No. 2022-0058, slip op. at 9.

⁴⁶ *Id.*

⁴⁷ *Hanna*, ARB No. 2023-0015, slip op. at 8 (citing *Mehrotra*, ARB No. 2022-0060, slip op. at 8).

⁴⁸ *See id.* at 8-9.

⁴⁹ *Woods v. Boeing-South Carolina*, ARB No. 2011-0067, ALJ No. 2011-AIR-00009, slip op. at 8 (ARB Dec. 10, 2012) (citing *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96 (1990)).

⁵⁰ *Id.* (citing *Wilson v. Sec'y, Dep't of Veterans Affs.*, 65 F.3d, 402, 404 (5th Cir. 1995)).

⁵¹ Both the April 12, 2022 and May 4, 2023 complaints describe that on March 21, 2022 Complainant locked out the fume hood because she noticed that the hood was leaking a possible sulfuric acid solution and allege that she was subsequently suspended and terminated from her employment because of her actions. *See* April 12, 2022 OSHA intake interview statement and May 4, 2023 OSHA complaint.

that the ALJ properly determined that Complainant failed to demonstrate that she was entitled to “equitable modification under estoppel or tolling grounds.”⁵²

Complainant’s sole argument for equitable modification on appeal is that OSHA improperly docketed her March 21 and April 12, 2022 complaints.⁵³ She alleges that OSHA failed to consider the claims under the specified environmental statutes even though “relevant case law and regulation solidifies . . . docketing under the statutes FWPCA, CAA, and TSCA.”⁵⁴ Complainant thus asserts that equitable modification is required “to allow [her] claims to proceed for investigation under applicable statutes.”⁵⁵

Complainant contends that the Board should correct OSHA’s alleged docketing issues, citing *Tomlinson v. EG&G Defense Materials, Inc* as support for her position.⁵⁶ In *Tomlinson*, the complaint specifically alleged that the employer violated Section 11(c) of the OSH Act *and* six other environmental statutes, including the CAA, FWPCA, and TSCA, and OSHA investigated the complaint under the statutes outlined in the complaint.⁵⁷ The case concerned the overlapping applicability of environmental whistleblower statutes—which were already part of the complaint in that case—with the OSH Act, not whether the complaint had been properly docketed.⁵⁸

This case is different: Complainant did not assert the environmental statutes in her March 21 and April 12, 2022 complaints and misinterprets the implementing regulations regarding OSHA’s docketing process. Section § 24.103(e) does not require OSHA to docket a Complaint under the environmental statutes whenever a Complaint files a complaint under Section 11(c) of the OSH Act, as Complainant alleges. Rather, the regulation authorizes OSHA to docket cases brought under Section 11(c) under environmental statutes *at its discretion when there is support for doing so*. Section § 24.103(e) plainly states that in order for a section 11(c) complaint to be deemed a complaint under the environmental statutes listed in

⁵² Order at 7; *see Clifford v. Conoco Phillips*, ARB No. 2017-0064, ALJ No. 2017-WPC-00002, slip op. at 6 (ARB Sept. 6, 2019) (affirming the ALJ’s order on the basis that Clifford’s complaint was untimely filed under the FWPCA and that Clifford was not entitled to equitable estoppel, equitable tolling, or waiver).

⁵³ Comp. Br. at 14-15.

⁵⁴ *Id.* at 15.

⁵⁵ *Id.* at 5-6.

⁵⁶ Comp. Br. at 5-6; *Tomlinson v. EG&G Defense Materials, Inc.*, ARB Nos. 2011-0024, -0027, ALJ No. 2009-CAA-00008 (ARB Jan. 31, 2013).

⁵⁷ *Tomlinson*, ARB Nos. 2011-0024, -0027, slip op. at 5.

⁵⁸ *Id.* at 8-9.

24.100(a), the complaint must allege “facts that would also constitute a violation of any of the statutes listed in 24.100(a).”⁵⁹

We further conclude that record evidence shows that OSHA properly exercised its discretion when it docketed and investigated Complainant’s March 21 and April 12, 2022 complaints only under section 11(c) of the OSH Act because she did not allege facts that would constitute a violation of the whistleblower protection provisions of the CAA, FWPCA, and TSCA.⁶⁰

Section 11(c) of the OSH Act prohibits persons from retaliating against employees for engaging in activity related to safety or health in the workplace.⁶¹ Complainant’s March 21 and amended April 12, 2022 complaints did not allege retaliation for raising environmental concerns and instead show that Complainant’s concern related to a general safety hazard.⁶² Complainant described the hazard as “fume hood stack is leaking a possible sulfuric acid solution.”⁶³ She did not raise concerns about how the alleged leak was hazardous to the environment or public

⁵⁹ 29 C.F.R. § 24.103(e) (“A complaint filed under any of the statutes listed in Sec. 24.100(a) alleging facts that would also constitute a violation of Section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c), will be deemed to be a complaint under both Section 11(c) and the applicable statutes listed in 24.100(a). Similarly, a complaint filed under Section 11(c) that alleges facts that would also constitute a violation of any of the statutes listed in 24.100(a) will be deemed to be a complaint under both section 11(c) and the applicable statutes listed in 24.100(a).”).

⁶⁰ See *Williams v. Dallas Indep. Sch. Dist.*, ARB No. 2012-0024, ALJ No. 2008-TSC-00001, slip op. at 10 (ARB Dec. 28, 2012) (quoting *Erickson v. U.S. Env’t Prot. Agency*, ARB Nos. 2004-0024, -0025, ALJ Nos. 2003-CAA-00011, 2004-CAA-00001, slip op. at 7-8 (ARB Oct. 31, 2006)) (“A complainant that expresses only a vague notion that the employer’s conduct might negatively affect the environment is not protected. Nor is a complaint that is based on numerous assumptions and speculation.”).

⁶¹ 29 U.S.C. § 660(c)(1) provides “No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others any right afforded by this chapter.”

⁶² Complainant argues that OSHA should have investigated her 2022 complaint under the TSCA, CAA, and FWPCA because they all “regulate sulfuric acid in some form or fashion.” Comp. Br. at 10.

⁶³ March 21, 2022 OSHA complaint.

health, but, instead, noted that four employees were threatened by this hazard.⁶⁴ In addition, Complainant referenced filing a “safety complaint with OSHA” and noted her concerns about a “potential safety hazard.”⁶⁵ She also specifically stated that she was “suspended, terminated, and not placed into another assignment in retaliation for raising *safety concerns at the jobsite*.”⁶⁶ Since Complainant’s March 23 and April 12, 2022 complaints only alleged violations under Section 11(c) of the OSH Act, and because the facts Complainant alleged did not inherently implicate the environmental statutes, OSHA acted within its discretion in not initially docketing the complaint under them.⁶⁷

Moreover, the facts as OSHA determined them in its investigation did not support later amending the complaint to include the environmental statutes. OSHA investigated Complainant’s allegations regarding the leaking fume hood on March 21, 2022 and found no valid safety or environmental hazards. In its January 12, 2023 determination letter, OSHA dismissed the March 21 and April 12, 2022 complaints because it found that Complainant did not engage in protected activity when she locked-out the fume hood on March 21, 2022.⁶⁸ OSHA specifically noted that DuPont repaired and reinspected the fume hood over the weekend after Complainant complained about it still leaking.⁶⁹ It also pointed out that it conducted air sampling for sulfuric acid on April 7, 2022 at the work site and found no hazardous exposure to sulfuric acid.⁷⁰

⁶⁴ *Id.*; see *Devers v. Kaiser-Hill Co.*, ARB No. 2003-0113, ALJ No. 2001-SWD-00003, slip op. at 12-13 (ARB Mar. 31, 2005) (finding that a complaint alleging exposure to nitric acid odors without sufficient protective equipment at work did not allege protected activity under the TSCA because the complainants’ “health concerns did not touch on any hazards to the environment or public health and safety”).

⁶⁵ March 23, 2022 OSHA intake interview statement.

⁶⁶ April 12, 2022 OSHA amended complaint (emphasis added).

⁶⁷ See *Martin*, ARB No. 2022-0058, slip op. at 2-4 (affirming that Martin had filed an untimely complaint and failed to establish any situation that warranted extension of the filing deadline even though Martin had timely filed two complaints with OSHA under Section 11(c) of the OSH Act); see *Udofot v. NASA*, ARB No. 2010-0027, ALJ No. 2009-CAA-00007, slip op. at 6-7 (ARB Dec. 20, 2011) (rejecting Udofot’s argument that he was entitled to equitable tolling of the limitations period for his CAA claim because he filed the precise statutory claim in the wrong forum even though the Board acknowledged an “overlap” between Udofot’s work-safety complaints and those found in a CAA whistleblower complaint).

⁶⁸ January 12, 2023 OSHA determination letter.

⁶⁹ *Id.*

⁷⁰ *Id.* Furthermore, as noted above, Complainant failed to appeal the January 12, 2023 OSHA determination letter even though she was instructed to file an appeal within 15 calendar days of receipt of the letter. *Id.*

The evidence of record further reveals that OSHA properly processed Complainant's May 4, 2023 complaint according to its internal procedures and determined that the complaint was unrelated to the previous April 12, 2022 complaint. In its May 24, 2023 determination letter, OSHA indicated that Complainant asserted that the May 4, 2023 complaint should have been associated with the 2022 complaint.⁷¹ It determined that "there was no evidence available in the complaint to support filing under the identified statutes."⁷² Since OSHA investigated Complainant's allegations about the leaking fume hood, we find that Complainant failed to establish that equitable modification is necessary to allow her complaint to proceed to investigation.

Accordingly, we affirm the ALJ's determinations that Complainant's May 4, 2023 complaint was not timely filed as she did not file her OSHA complaint within 30 days of her termination from employment on April 11, 2022, and that Complainant has not established that she is entitled to equitable modification of the statutory deadlines in this case.

CONCLUSION

For the above reasons, we **AFFIRM** the ALJ's Order Dismissing Claim.

SO ORDERED.



ANGELA W. THOMPSON
Administrative Appeals Judge



JONATHAN ROLFE
Administrative Appeals Judge

⁷¹ May 24, 2023 OSHA determination letter.

⁷² *Id.*