



United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

OSHRC Docket No. 16-1778

PERDUE FOODS, INC.,

Respondent.

APPEARANCES:

Karen E. Mock, Counsel; Stanley E. Keen, Regional Solicitor; M. Patricia Smith, Solicitor of Labor; U.S. Department of Labor, Washington, DC
For the Complainant

Raymond Perez, Jackson Lewis P.C., Atlanta, GA
For the Respondent

REMAND ORDER

Before: MACDOUGALL, Acting Chairman; and ATTWOOD, Commissioner.

BY THE COMMISSION:

Chief Administrative Law Judge Covette Rooney issued a December 14, 2016 Order Approving Stipulated Settlement Agreement between Perdue Foods, Inc., and the Secretary. The parties stated in an informal settlement agreement dated October 13, 2016, that Citation 1, Item 2 was excluded from the agreement as Respondent intended to contest it. *See* 29 C.F.R. § 2200.100(b) (requiring that settlement agreement specify the terms for each contested item and “specify any contested item . . . that remains to be decided”). Although the informal settlement agreement did not fully resolve the case, the judge issued an order, and it was submitted for docketing and subsequently docketed on December 19, 2016, thereby commencing the thirty-day period before “[t]he report of the administrative law judge . . . become[s] the final order of the Commission.” 29 U.S.C. § 661(j) (“The report of the administrative law judge shall become the

final order of the Commission within thirty days after such report by the administrative law judge, unless within such period any Commission member has directed that such report shall be reviewed by the Commission.”); 29 C.F.R. § 2200.90(b)(2) (“Promptly upon receipt of the Judge’s report, the Executive Secretary shall docket the report and notify all parties of the docketing date.”).

On January 11, 2017, within the thirty-day period under section 12(j) of the Occupational Safety and Health Act, 29 U.S.C. § 661(j), each party filed an unopposed motion with the Commission: the Secretary filed an Unopposed Motion to Remand, and Respondent filed an Unopposed Motion to Allow Late Answer and an Answer to Complaint. Because the judge’s order did not fully resolve the case, we remand it to the judge for further consideration of these pending matters.

SO ORDERED.

/s/
Heather L. MacDougall
Acting Chairman

/s/
Cynthia L. Attwood
Commissioner

Dated: January 25, 2017

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SECRETARY OF LABOR,

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PERDUE FOODS, INC.,

Respondent.

OSHC DOCKET NO. 16-1778

**ORDER
APPROVING STIPULATED SETTLEMENT**

The Commission has jurisdiction over the subject matter of the case and over the parties by virtue of the filing of a timely notice of contest.

The stipulated settlement between the parties filed on **10/13/16** has been considered. The parties certify that affected employees were properly notified of the settlement on **10/19/16**. No objection to the settlement has been filed.

The settlement is approved under 5 U.S.C. § 554(c)(1) and Commission Rule 100.¹ The terms of the stipulated settlement are incorporated, in their entirety, by reference in this order.

/s/
COVETTE ROONEY
Chief Judge, OSHRC

Dated: December 14, 2016
Washington, D.C.

¹ Rules of Procedure of the Occupational Safety and Health Review Commission, 29 C.F.R. §§ 2200.1-.212 (1991).