

United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3419

SECRETARY OF LABOR,

Complainant,

QUINN & KWOLEK, INC.,

Respondent.

OSHRC DOCKET NO. 99-1285

DECISION AND ORDER ON MOTION FOR DEFAULT JUDGMENT

On January 12, 2000, the Complainant filed her Motion for Sanctions Pursuant to Rule 52(e). In her motion, the Complainant asserts that Respondent failed to answer her (1) First Set of Interrogatories, (2) First Request for Production for Documents, and (3) First Request for Admissions, which required a response on or before December 21, 1999. The Complainant also asserts that on December 21, 1999, she filed her Motion to Compel Response to Discovery Request, that on January 5, 2000, the undersigned issued an order granting the motion, and that pursuant to that order, the admissions in the Complainant's request were deemed admitted and the responses to the other discovery requests were to be filed no later than 3:00 p.m. on January 10, 2000. Finally, the Complainant asserts that Respondent has not responded to the order of January 5, 2000, and she now seeks sanctions against the Respondent.

DISCUSSION AND CONCLUSION

Rule 41(a) of the Commission's Rules of Procedure, 29 C.F.R. 2200.41(a), provides, in pertinent part, as follows:

Sanctions: When any party has failed to plead or otherwise proceed as provided by these rules or as required by the *** Judge, he may be declared to be in default *** on the motion of a party. Thereafter, the *** Judge, in [his] discretion, may enter a decision against the defaulting party ***.

Rule 52(e) of the Commission's Rules of Procedure, 29 C.F.R. 2200.52(e), provides, in pertinent part, as follows:

If a Judge enters an order compelling discovery and there is a failure to comply with that order, the Judge may make such orders with regard to the failure as are just.

In my opinion, Respondent has engaged in a pattern of total disregard for this Court, the administrative process and the pending proceeding. Counsel for the Complainant has been more than reasonable in her requests. The Respondent has not responded to the requests or to my order and has offered no reason for not complying in this matter. *Philadelphia Constr. Equip., Inc.*, 16 BNA OSHC 1128 (No. 92-899, 1993).

Good cause has been shown for granting the motion.

IT IS ORDERED that the Complainant's Motion for Sanctions Pursuant to Rule 52(e) is GRANTED.

IT IS FURTHER ORDERED that the Citation and Notification of Penalty issued June 17, 1999, is AFFIRMED in its entirety.

G. Marvin Bober
Administrative Law Judge

Dated:
Washington, D.C.