
SECRETARY OF LABOR,

Complainant,

v.

NORTHWEST AIRLINES, INC.,

Respondent.

OSHRC Docket No. 00-0954

ORDER

Before: ROGERS, Chairman; and EISENBREY, Commissioner.

BY THE COMMISSION:

On February 6, 2001, the Executive Secretary received a copy of a letter submitted by the AFL-CIO, Air Transport District 143, International Association of Machinists and Aerospace Workers, (“the Union”), to Judge Stephen J. Simko, Jr., objecting to the judge’s December 8, 2000, order approving a settlement agreement between the Secretary and Northwest Airlines, Inc. (“Northwest”).¹ On February 9, 2001, the Executive Secretary received a second objection letter directly from the Union, in which the Union noted that the judge had not ruled or responded to the first objection letter.

In both objection letters, the Union claims that it had requested party status in this case, but did not receive notification of the proposed settlement and was not given an opportunity for input prior to the settlement agreement’s approval.² Therefore, the Union

¹ Judge Simko’s order became a final order of the Commission on January 17, 2001.

² According to the documentation filed with its letters, the Union’s request for party status was sent to the OSHA Area Office in Columbus, Ohio, not to the judge. Under the Commission’s procedural rules, a request for party status must be filed with either the Executive Secretary, if the case has yet to be assigned to a judge, or the judge, if the case has already been assigned. See Commission Rules of Procedure 8(b) and 20(a). Here, the Union’s request should have been filed with the judge, who was assigned the case on June 6, 2000.

seeks to have the judge's approval order "vacated." Since the Union's letters were received by the Executive Secretary after the judge's order had already become final, any relief from that order can only be granted under Federal Rule of Civil Procedure 60(b). Accordingly, we refer the matter to the judge to decide what relief, if any, is appropriate under Rule 60(b).

/s/
Thomasina V. Rogers
Chairman

/s/
Ross Eisenbrey
Commissioner

Dated: March 5, 2001