



Issue Date: 12 January 2017

OALJ No. 2016-WPC-00001
OSHA No. 3-0050-12-069

In the Matter of:

HAI SAMRUNG,
Complainant,

v.

GENON ENERGY SERVICES, LLC,
Respondent.

ORDER OF DISMISSAL

On November 9, 2016, the undersigned issued an *Order Compelling Disclosure of Discovery*. The *Order* stated that the above-named Complainant had 21 days from the date of the order to comply with discovery.

On December 22, 2016, Respondent filed a *Motion to Dismiss* pursuant to 29 C.F.R. § 18.57, as Complainant did not respond to the undersigned's *Order Compelling Disclosure of Discovery*. Complainant did not respond to Respondent's request for discovery within the time authorized by 29 C.F.R. § 18.60(b)(2) and 29 C.F.R. § 18.60(b)(2)(i), which provides 30 days to respond to discovery requests. Moreover, under 29 C.F.R. § 18.63(a)(3), unanswered Requests for Admissions are deemed admitted if not answered within 30 days of receiving the Request.

Complainant has failed to complete and return updated discovery which hinders Respondent's ability to obtain and submit evidence supporting its defensive posture in this matter. The Complainant has not provided any

explanation why he did not respond to Respondent's request or the undersigned's *Order*.

By the guidance in 29 C.F.R. § 18.57, when a party fails to make disclosures or cooperate with discovery, the moving party in good faith may submit a *Motion to Dismiss* the case. There is no information in the case record to excuse the Complainant from not providing the requested discovery, Interrogatories and Request for Production. Pursuant to 29 C.F.R. § 18.57(b)(1)(v), failure to comply with the judge's order can result in a dismissal of the case, *inter alia*.

Complainant did not respond to Respondent's *Motion to Dismiss*. Therefore, there is no information in the case record to excuse the Complainant for not complying with the undersigned's *Order* or responding to Respondent's *Motion*. Accordingly,

Pursuant to 29 C.F.R. § 18.57(b)(1)(v), as Complainant has failed to comply with the undersigned's order, dismissal of the case is appropriate. OSHA's *Findings and Order* is the final decision of the Secretary, not subject to judicial review. In light of the foregoing, it is hereby **ORDERED** that this matter is **DISMISSED**.

SO ORDERED.

William S. Colwell
Associate Chief Administrative Law Judge

Washington, D.C.
WSC:LDG