

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. Q. Docket No. 07-0018
)
Aerpostal Airlines, Inc.,)
)
Respondent)

Order Granting Motion to Enter Consent Decision

This matter was scheduled for a hearing in Miami, Florida on July 10, 2008. However, on May 30, 2008, Complainant filed a motion to cancel the scheduled hearing representing that the parties had reached settlement. In support of the motion, which was unopposed, Complainant attached a copy of a faxed consent decision, signed by both counsel for Complainant and Counsel for Respondent. Accordingly, I cancelled the hearing.

On October 24, 2008, Complainant filed its Motion to Enter Consent Decision, urging that I treat the faxed copy of the consent decision as one applicable with the Rules of Procedure and sign and enter the decision without further procedure. A copy of this motion was served on Counsel for Respondent, but no reply was filed.

I am granting Complainant's Motion and I have signed the Consent Decision. As Complainant points out, Respondent was represented by Ricardo E. Pines, Esq., who filed an answer and request for hearing on behalf of Respondent, participated in the prehearing conference call at which the hearing date and location were agreed upon, and signed the Consent

Decision on behalf of his client. On May 9, 2008 he filed a list of anticipated witnesses and proposed list of exhibits pursuant to my March 17, 2008 Order. While the original of the Consent Decision was never returned to Counsel for Complainant, I agree with Complainant that, in the absence of any information to the contrary, Mr. Pine's signature binds his client, that the Consent Decision otherwise meets the criteria for mandatory approval by the administrative law judge, and that Consent Decisions received by fax may be an acceptable version of the agreement if circumstances warrant. A brief search of the OALJ website confirms that faxed signatures have been accepted in numerous prior cases. Given that Respondent filed no opposition to Complainant's Motion, during which Respondent could have raised an issue as to genuineness of the signature or any other issues that were pertinent, I deem the document to be a valid Consent Decision and am signing it concurrent with signing this ruling.

Marc R. Hilson
MARC R. HILLSON
Chief Administrative Law Judge

March 13, 2009