

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD

ROBERT P. HARDY,
Appellant,

DOCKET NUMBER
SF0752900385-X-1*

v.

UNITED STATES POSTAL SERVICE,
Agency.

DATE: OCT 05 1993

Robert P. Hardy, Gardner, Massachusetts, pro se.

Zane Maddox, West Sacramento, California, for the
agency.

BEFORE

Ben L. Erdreich, Chairman
Jessica L. Parks, Vice Chairman
Antonio C. Amador, Member

ORDER

This case is before the Board on a Recommendation for enforcement dated July 7, 1993, by the Board's San Francisco Regional Office, finding the agency in noncompliance with a settlement agreement reached on April 10, 1990. In an initial decision that became final on May 22, 1990, the administrative judge found that the Board had jurisdiction over the matter, and that the agreement was freely entered into by the parties and was

* The docket number below was SF0752900385-C-3.

lawful on its face. *Hardy v. United States Postal Service*, MSPB Docket No. SF07529010385 (Apr. 17, 1990). The agreement was made part of the record. The Board, therefore, has jurisdiction to enforce the terms of the agreement. See *Shaw v. Department of the Navy*, 39 M.S.P.R. 586, 594 (1989).

In the Recommendation, the administrative judge found that the agency had not complied with the terms of the settlement agreement. The case was referred to the full Board for enforcement, and an order instructing the agency to comply or to file a brief supporting its disagreement was issued. See 5 C.F.R. § 1201.183(a)(6)(ii) (1992). Specifically, the administrative judge ordered the agency to: (1) pay \$50.00 to the appellant; (2) admonish all employees of the Citrus Heights Post Office to strictly comply with term 7 of the settlement agreement, which restricts them from disclosing or discussing the appellant's past disciplinary record or any settlement arrived at, in relation to any inquiries for employment opportunities; and (3) notify the Worcester, Massachusetts facility that the 14-day suspension was erroneously included in the appellant's Official Personnel Record (OPR) and that it should disregard the appellant's former supervisor's unauthorized and erroneous reference to that suspension. On July 8, 1993, the agency filed evidence of payment of the lump sum. Compliance File (CF), Volume 1, Tab 8. On

July 19, 1993, the agency filed evidence of compliance with the rest of the administrative judge's order. CF, Volume 2, Tab 1. The appellant has not exercised his regulatory right to respond to the agency submission, 5 C.F.R. § 1201.183(a)(7) (1992), although he was informed of this right in the Recommendation.

Accordingly, in light of the agency's evidence of compliance and the appellant's failure to object to the agency's assertion that it has complied, the Board hereby DISMISSES appellant's petition for enforcement. This is the final order of the Merit Systems Protection Board in this case.

NOTICE TO APPELLANT

You have the right to request the United States Court of Appeals for the Federal Circuit to review the Board's final decision in your appeal if the court has jurisdiction. See 5 U.S.C. § 7703(a)(1). You must submit your request to the court at the following address:

United States Court of Appeals
for the Federal Circuit
717 Madison Place, NW.
Washington, DC 20439

The court must receive your request for review no later than 30 calendar days after receipt of this order by your representative, if you have one, or receipt by

you personally, whichever receipt occurs first. See 5
U.S.C. § 7703(b)(1).

FOR THE BOARD:



Robert E. Taylor
Clerk of the Board

Washington, D.C.