

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

ROBERT HEATH,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	
)	OCAHO Case No. 2021B00035
RANG TECHNOLOGIES,)	
Respondent.)	
)	

Appearances: Robert Heath, pro se, Complainant
Patrick Papalia, Esq. and Tanneika Minott, Esq., for Respondent

ORDER GRANTING MOTION FOR CONTINUANCE

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On June 1, 2021, Complainant Robert Heath filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent Rang Technologies.

On February 18, 2022, the undersigned issued an Order setting an initial prehearing conference for the purposes of setting deadlines and discovery limitations, to be held on March 23, 2022, at 11:00 A.M. Eastern Standard Time.

On March 21, 2022, both parties informed the Court via e-mail that they have reached a tentative settlement agreement and would like to postpone the initial prehearing conference. Respondent’s counsel, Mr. Papalia, informed the Court that he sent by FedEx a letter on Friday, March 18, 2022, asking for an adjournment of the conference. On the same day, Respondent filed a written request for an adjournment of the conference for two weeks to allow the parties to finalize the settlement. Complainant joined in the request.

OCAHO’s rules provide for motions for continuance to postpone a scheduled proceeding. *See* 28 C.F.R. § 68.27. Since Respondent moved for a two-week postponement of the prehearing conference, the Court construes Respondent’s request for an adjournment as a motion for a continuance.

Under the rules, a request for a continuance filed within the period of 14 days prior to the date of the scheduled proceeding must: a) demonstrate “good cause” arising within that period, § 68.27(c) (“Except for good cause arising thereafter, requests for continuances must be filed not

later than fourteen (14) days prior to the date of the scheduled proceeding.”); and b) be telephonically communicated to “the Administrative Law Judge or a member of the Judge’s staff and to all other parties.” Id. These rules are applicable in this matter because Respondent filed its motion two days before the prehearing conference was scheduled to occur.

The Court finds that Respondent has demonstrated good cause for its motion by representing that the parties have reached a tentative settlement agreement. To hold a prehearing conference to set case deadlines and discovery limitations when the parties have reached a tentative settlement agreement would be, in the ordinary course of events, a misuse of the parties’ time. Accordingly, a continuance of the prehearing conference is warranted.

Further, the Court will permit the continuance despite Respondent’s technical violation of the rules in its failure to telephonically communicate the continuance request with the Court. The Court finds that Respondent’s communication with the Court of its continuance request via e-mail substantially complies with the spirit of the rule — the request was received by all parties and the Court prior to the scheduled proceeding. Respondent’s e-mail was sent to Complainant; thereafter, Complainant sent an e-mail to the Court and Respondent which corroborated Respondent’s representations about the status of the settlement negotiations.

Accordingly, Respondent’s motion is GRANTED. The Court will continue the prehearing conference for one month to allow the parties to finalize their settlement agreement. The parties may file a submission pursuant to 28 C.F.R. § 68.14(a) notifying the Court that the parties have reached a full settlement and have agreed to dismissal of the action, or seeking entry of consent findings. If the Court is not in receipt of a submission pursuant to 28 C.F.R. § 68.14(a) by April 15, 2022, the Court ORDERS that an initial prehearing conference will be held on April 21, 2022, at 11:00 a.m. Eastern Standard Time to set a scheduling order, impose discovery limitations, and set a date for the hearing.

SO ORDERED.

ENTERED:

Honorable John A. Henderson
Administrative Law Judge

DATE: April 1, 2022