

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

July 26, 2023

DUVAUGHN JOSEPH LOWDEN, JR.,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2023B00063
	)	
ANN ARBOR ELECTRICAL JATC TRAINING	)	
CENTER,	)	
Respondent.	)	
_____	)	

Appearances: DuVaughn Joseph Lowden, Jr., pro se Complainant  
Ann Arbor Electrical JATC Training Center, pro se Respondent<sup>1</sup>

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO ANSWER COMPLAINT

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On May 31, 2023, Complainant, DuVaughn Joseph Lowden, Jr., filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO), alleging that Respondent, Ann Arbor Electrical JATC Training Center, discriminated against him based on his citizenship status in violation of § 1324b(a)(1).

On June 9, 2023, the Chief Administrative Hearing Officer sent the parties a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA) and a copy of the complaint. The answer was due within thirty (30) days after receipt of the NOCA and attached

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<sup>1</sup> Attorney Robert L. Duston filed Respondent's Motion for Extension of Time, but has not filed a notice of appearance. The Court exercises discretion to accept the Extension Motion but directs Attorney Duston to file a notice of appearance pursuant to 28 C.F.R. § 68.33(f).

complaint. *See* 28 C.F.R. §§ 68.3(b), 68.9(a).<sup>2</sup> The NOCA and complaint were delivered on Respondent’s business address on June 20, 2023, making an answer due by July 20, 2023.<sup>3</sup>

On July 19, 2023, Respondent filed an Unopposed Motion for Extension of Time to Answer the Complaint. Respondent’s counsel cites the timing of his client’s decision to retain him as the reason for his request. He requests an extension to file an answer to “promote efficiency and enable Respondent to better address the complex nature of the allegations in the complaint.” Further, “Complaint counsel [sic] does not oppose the relief sought in this motion.”<sup>4</sup>

“OCAHO rules do not provide specific standards for granting extensions, but the standard routinely applied is good cause.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021) (citations omitted);<sup>5</sup> *see also* Fed. R. Civ. P. 6(b)(1)(A) (stating good cause as the standard for when a party requests extension before the original time expires). Good cause requires “a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance within the time specified in the rules.” *Id.* (citations omitted).

The Court finds that Respondent’s recent retention of counsel constitutes good cause, and GRANTS Respondent’s motion. The deadline to file the answer is now August 21, 2023.

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<sup>2</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

<sup>3</sup> The Court received a return receipt from Respondent’s business address signed by John Salyer and dated June 20, 2023.

<sup>4</sup> No counsel has entered an appearance on behalf of Complainant. The Court also notes that the Extension Motion indicates that Respondent “accepted electronic service of the complaint in this proceeding on June 19, 2023,” making an answer due July 20, 2023. However, as discussed above, the Court sent the NOCA and complaint via USPS certified mail, which was received by Respondent on June 20, 2023.

<sup>5</sup> Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

SO ORDERED.

Dated and entered on July 26, 2023.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge