

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 September 2003

BALCA Case No.: 2003-INA-11
ETA Case No. P2001-NY-02471757

In the Matter of:

BEDROCK DEVELOPMENT, INC.,
Employer,

on behalf of

JOSE L. AGUDO,
Alien.



ORDER OF DISMISSAL

On September 11, 2002, the Certifying Officer ("CO") issued a Final Determination denying certification in the above-captioned case based on Employer's failure to rebut her finding that Employer's wage offer failed to meet the prevailing wage based on the Davis-Bacon rate or union scale. (AF 63) The CO also found that Employer had unlawfully rejected four U.S. applicants. *Id.* In a request for review dated September 18, 2002, Employer stated:

I am requesting a review of the denial of the certification. I would like to state that Mr. Agudo has been in our employ since November 2000. We do not want to lose him for various reasons. We have sent him to numerous schools for certification pertaining to our industry. He has also become a valued and trusted member of my staff. It would be a hardship to lose him now. I would appreciate any assistance you can offer me in retaining Mr. Agudo as a permanent employee.

(AF 65) It is noted that Employer was represented by counsel, but filed the request for review itself. On October 30, 2002, this Office issued a Notice of Docketing, providing an opportunity for Employer to file a brief or statement of position within twenty-one days of the date of said Notice. To date, the Board has received no such brief or statement of position although it did receive a response from Employer's attorney to an order directing the provision of the Alien's current address.

Employer's request for review does not state why the CO erred in regard to its finding that Employer did not successfully rebut the deficiencies cited in the Notice of Findings ("NOF"). Where the request for review fails to set forth specific grounds for review and no brief is filed, Employer has failed to comply with the regulatory requirements for requesting review by this Board and the request for review is dismissed. *See Bixby/Jalama Ranch*, 1988-INA-449 (Mar. 15, 1990); *North American Printing Ink. Co.*, 1988-INA-42 (Mar. 31, 1988) (*en banc*); *Marine Fabrication*, 1995-INA-244 (June 7, 1995) (Board dismissed were request for review merely stated that the CO's denial was an abusive discretionary decision and not based on fact or legal precedent). Because Employer has not identified any error in the CO's Final Determination, the denial of alien labor certification is hereby **AFFIRMED** and this case is **DISMISSED**.

SO ORDERED.

Entered at the direction of the Board:

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Todd R. Smyth
Secretary to the Board of
Alien Labor Certification Appeals