

28717
SEC

SERVICE DATE - DECEMBER 12, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB No. 41722

AMERICAN WHITE CROSS, INC. F/K/A NPM HEALTHCARE PRODUCTS, INC.

v.

ST. JOHNSBURY TRUCKING COMPANY, INC.

Decided: December 9, 1997

This matter is before the Board on referral from the United States District Court for the Southern District of New York in St. Johnsbury Trucking Company, Inc. v. American White Cross, Inc. f/k/a NPM Healthcare Products, Inc., 95 Civ 5304(SS), Adv. No. 95-9335A (referral order dated March 29, 1996). The proceeding arises out of the efforts of St. Johnsbury Trucking Company, Inc., to collect undercharges on certain shipments from shipper American White Cross, Inc. f/k/a NPM Healthcare Products, Inc. (complainant). By decision served June 27, 1996, the Board established a procedural schedule in this proceeding.

By decision served October 2, 1996, this proceeding was held in abeyance pending a request for further action from complainant. Subsequently, by decision served November 10, 1997, the Board directed the parties to submit a status report indicating whether they desired to proceed with this proceeding.

By letter filed December 5, 1997, complainant's counsel advised the Board that, while complainant remains in bankruptcy and the automatic stay remains in force, complainant does not object to dismissing this proceeding without prejudice, reserving the right to later proceed before the Board should the circumstances so warrant. The approach suggested by complainant will be adopted.

It is ordered:

1. This proceeding is dismissed without prejudice.
2. This decision is effective on its service date.

STB No. 41722

3 A copy of this decision will be mailed to:

The Honorable Sonia Sotomayor
United States District Court for
the Southern District of New York
500 Pearl Street, Room 1340
New York, NY 10038

Re: Civil Case No. 95 Civ 5304(SS),
Adv. No. 95/9335A

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

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