

Docket Number: 3833

AIKEN FARMS

Kenneth A. Eisner, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

Andrew S. Gordon, Chief Counsel
Jody L. King, Assistant Counsel

CLOSED

April 14, 2006

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$57,042.20.

April 18, 2006

Board issued Acknowledgment letter and forwarded a copy of the Claim to Attorney General.

April 24, 2006

Attorney General filed Acceptance of Service of Claim dated April 18, 2006. Receipt of same acknowledged April 20, 2006.

May 11, 2006

Defendant filed an Answer.

May 12, 2006

Board forwarded letter to parties directing them to proceed with discovery.

August 10, 2006

Plaintiff filed letter advising that Plaintiff does not intend to perform any discovery and requests to place the case at issue.

August 16, 2006

Board forwarded letter to parties requesting scheduling information.

August 21, 2006

Defendant filed Notice of Motion for Judgment on the Pleadings and Brief. [05A101706D]

August 31, 2006

Defendant filed a letter advising that Defendant thinks this matter can be resolved in the Defendant's favor without the necessity of discovery or a hearing, as well as a proposed scheduling order in the event the Defendant's motion is not successful.

September 11, 2006

Plaintiff filed proposed scheduling order.

September 14, 2006

Plaintiff filed Response to Defendant's Motion for Judgment on the Pleadings and Brief in Support.

September 14, 2006

Plaintiff filed Motion for Judgment on the Pleadings and Brief in Support. [05A101706D]

October 16, 2006

Defendant filed Response to Claimant's Motion for Judgment on the Pleadings, Brief in Support.

October 16, 2006

Defendant filed Reply Brief in Further Support of its Motion for Judgment on the Pleadings.

November 15, 2006

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 15th day of November, 2006, after review of Defendant's motion for judgment on the pleadings and Plaintiff's reply thereto, and upon review of Plaintiff's motion for judgment on the pleadings and Defendant's reply thereto, it is hereby **ORDERED** and **DECREED** as follows: (1) Defendant's Motion is **DENIED**; and (2) Plaintiff's Motion is **DENIED**." Copy forwarded to Plaintiff and Defendant.

November 20, 2006

Defendant filed Acceptance of Service of Opinion and Order dated November 15, 2006. Receipt of same acknowledged November 16, 2006.

November 27, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated November 15, 2006. Receipt of same acknowledged November 17, 2006.

November 28, 2006

Board forwarded letter to parties requesting a proposed scheduling order.

December 6, 2006

Plaintiff filed scheduling information.

December 7, 2006

Defendant filed Notice of Deposition of David Aiken.

December 14, 2006

Board issued Scheduling Order. Order as follows: **"AND NOW**, this 14th day of December, 2006, in view of the representation of Plaintiff's counsel that the parties have agreed to the following, it is hereby **ORDERED** and **DECREED**: 1. Neither party intends to present expert testimony; 2. All discovery shall be completed by January 22, 2007*; 3. The last day for filing pre-trial motions is February 8, 2007*; 4. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than February 8, 2007 (Please note BOC R.P. 501(b) and (c)(3)); 5. A pre-trial conference is scheduled for Thursday, March 15, 2007 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 6. This matter is set for hearing beginning on Tuesday, May 1, 2007, or as necessary. Said hearing shall be held at the Saint Joseph's Center, 2900 Seminary Drive, Greensburg, PA commencing at 9:30 a.m. *All discovery motions shall be filed at least 30 days in advance of the close of discovery to allow for a 15 day response period and decision by the Board prior to the close of the discovery." Copy forwarded to Plaintiff and Defendant.

June 8, 2007

Defendant filed Acceptance of Service of testimony dated June 4, 2007. Receipt of same acknowledged June 5, 2007.

March 15, 2007

Board pre-trial conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 1:00p.m.

April 20, 2007

Defendant filed Stipulation of Facts signed by both parties.

April 20, 2007

Defendant filed Supplemental Pre-trial Statement.

May 1, 2007

Panel Hearing held at the St. Joseph's Center, 2900 Seminary Drive, Greensburg, Pa commencing at 9:00 a.m. "Case Complete"

June 1, 2007

Testimony of panel hearing held May 1, 2007 filed.

June 8, 2007

Defendant filed Acceptance of Service of Testimony dated June 4, 2007. Receipt of same acknowledged June 5, 2007.

June 13, 2007

Plaintiff filed Findings of Fact and Conclusions of Law.

July 6, 2007

Defendant filed (via fax) letter advising that Defendant did not receive Plaintiff's proposed findings of fact, etc. until June 25, 2007, and therefore, will be filing its response to same within 30 days of that date.

July 25, 2007

Defendant filed Proposed Findings of Fact and Conclusions of Law and Brief in Support.

August 13, 2007

Plaintiff filed letter advising that Plaintiff does not intend to submit any additional post-hearing filings.

October 16, 2007

Panel Report submitted.

January 8, 2008

Board rendered the following Opinion and Order: "**AND NOW**, to wit, this 8th day of January, 2008, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the claim of Aiken Farms against the Commonwealth of Pennsylvania, Department of Transportation on Contract No. 08014063 is **DENIED**. Each party will bear its own costs and attorney fees." Copy forwarded to Plaintiff, Defendant and Chief Deputy Attorney General.

January 10, 2008

Defendant filed Acceptance of Service of Opinion and Order dated January 8, 2008. Receipt of same acknowledged January 9, 2008.

January 14, 2008

Attorney General filed Acceptance of Service of Opinion and Order dated January 8, 2008. Receipt of same acknowledged January 10, 2008.

January 14, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated January 8, 2008. Receipt of same acknowledged January 10, 2008.
