



Issue Date: 08 January 2010

CASE NO.: 2010 STA 3
In the Matter of
EDWARD G. DAVIS, JR.
Complainant

v.

CPC LOGISTICS
Respondent

Appearances: Mr. Edward G. Davis, Jr., *Pro Se* (representing himself)
For the Complainant

Mr. John H. Dowell, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**RECOMMENDED ORDER –
APPROVING WITHDRAWAL OF OBJECTIONS
AND DISMISSING COMPLAINT**

Having been assigned to render a decision in this case under Section 405 of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, as implemented by 29 C.F.R. § 1978, and pursuant to a Notice of Hearing, dated December 8, 2009, I set a hearing date of January 26, 2010 in Milwaukee, Wisconsin.

On January 6, 2010, I received letter from the Complainant indicating that he was “rescinding” his appeal of the adverse determination by the Occupational Safety and Health Administration (“OSHA”) and withdrawing his complaint with OSHA. In light of his actions, the Complainant stated he would not appear at the scheduled hearing.

According to 29 C.F.R. § 1978.111(c), a complainant may file a written withdrawal of objections to the Secretary’s preliminary findings with an administrative law judge at any time before the findings or order becomes final. Since Mr. Davis’ correspondence clearly reflects his intention to withdraw his objections to the preliminary findings, approval of the withdrawal of Mr. Davis’ objections to OSHA’s preliminary findings and cancelation of the January 26, 2010 hearing is warranted. Correspondingly, in the absence of any objections by the Complainant, OSHA’s October 16, 2009 preliminary finding that the Respondent did not violate the employee protection provisions of the STAA, 49 U.S.C. § 31105, and dismissal of Mr. Davis’ STAA complaint will be reinstated.

ORDER

Accordingly, the hearing scheduled for January 26, 2010 is cancelled. The Secretary's preliminary findings in this case are reinstated. And, the STAA complaint by Mr. Edward G. Davis, Jr. is **DISMISSED**.

SO ORDERED:

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RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: January 7, 2010
Washington, D.C.

NOTICE OF REVIEW: The administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. See 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, the parties may file briefs with the Administrative Review Board ("Board") in support of, or in opposition to, the administrative law judge's order unless the Board, upon notice to the parties, establishes a different briefing schedule. See 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.