

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 22 February 2010

CASE NO.: 2010-STA-00002

In the Matter of:

TYSON HARPER,
Complainant,

v.

J.B. HUNT TRANSPORTATION,
Respondent.

**RECOMMENDED DECISION AND ORDER APPROVING COMPLAINANT'S WITHDRAWAL
OF OBJECTIONS TO SECRETARY'S FINDINGS, DISMISSING HIS STAA COMPLAINT,
AND ORDER CANCELLING HEARING**

This case arose when the complainant, Tyson Harper ("Complainant"), filed a complaint under the employee protection provisions of the Surface and Transportation Assistance Act ("STAA"), 49 U.S.C.A. § 31105, alleging that his employer, J.B. Hunt Transportation, Inc. ("Respondent"), terminated his employment and blacklisted him for immediately maneuvering his vehicle off the road due to a blown tire.

On October 30, 2009, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration, (Secretary) issued a Notice of Determination containing specific factual findings and legal conclusions which resulted in the dismissal of the complaint in this case (the "Secretary's Findings").

On November 5, 2009, Complainant objected to the Secretary's Findings and requested a hearing before this Office. Trial is currently set for February 26, 2010 in Las Vegas, Nevada.

On February 19, 2010, Complainant filed his Unopposed Motion to Dismiss Proceeding and Notice Withdrawing Objections to Secretary's Findings stating that he was withdrawing his appeal in this matter. The Motion also represents that Complainant's counsel "conferred with Respondent's counsel, Byron Ames, Esq., who has authorized the undersigned to represent that the Respondent does not oppose this motion."

I find that pursuant to 29 CFR § 1978.111(c), Complainant can withdraw his objections to the Secretary's Findings because they were not final when the Withdrawal was filed.

RECOMMENDED ORDER

IT IS RECOMMENDED that the complaint filed by Tyson Harper under the provisions of Section 405 of the Surface and Transportation Assistance Act, 49 U.S.C. § 31105 be **DISMISSED** with prejudice.

IT IS FURTHER ORDERED that the trial set in this case for February 26, 2010 in Las Vegas, Nevada, is **VACATED**.

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GERALD M. ETCHINGHAM
Administrative Law Judge

San Francisco, California