

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 31 August 2010

Case No.: 2010-STA-00053

In the Matter of:

DWAYNE SMITH,

Complainant,

v.

CARDINAL LOGISTICS MANAGEMENT CORP.,

Respondent.

**RECOMMENDED
ORDER OF DISMISSAL**

This proceeding arises under the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31105 and the regulations promulgated thereunder at 29 C.F.R. Part 1978.

On August 26, 2010, Counsel for Complainant forwarded Complainant's Withdrawal of Objections to Secretary's Findings and Motion to Dismiss the Complaint. Respondent has been served with Complainant's Motion and has no objection to an order of voluntary dismissal.

The Rules For Implementing Section 405 of the Surface Transportation Assistance Act of 1982, 29 C.F.R. §1978.111(c), provide that, at any time before the findings or order become final, a party may withdraw his objections to the findings or order by filing a written withdrawal with the administrative law judge. The judge shall determine whether to affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn.

Complainant has submitted such a withdrawal. Since Respondent has no objections, Complainant's request is hereby accepted. Consistent with the regulation, it is recommended that the Complaint be **DISMISSED** with prejudice and the Secretary's preliminary findings be **AFFIRMED**.

The formal hearing presently scheduled to commence on November 3, 2010 in Atlanta, Georgia is **CANCELLED**.

A

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc

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.