



Issue Date: 25 October 2010

CASE No.: 2010-STA-57

In the Matter of:

BRUCE TUSLER,  
Complainant

v.

SCHWAN'S HOME SERVICE, INC.  
Respondent

**ORDER  
APPROVING WITHDRAWAL OF OBJECTIONS,  
DISMISSING CLAIM AND CANCELLING HEARING**

This case arises under Section 405, the employee protection provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2006). A hearing is presently scheduled for October 27, 2010, in Ashland, Wisconsin. On October 22, 2010, Complainant submitted a Motion for Non-suit, wherein Claimant asserted that "All parties involved agree to arrest this matter and will release both parties from any liability entirely." A telephonic conference was held with the parties on October 22, 2010, wherein Complainant stated that the intent of the motion is his voluntary dismissal of the case.

Pursuant 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. Thus, where a complainant seeks to withdraw his or her complaint, the Complainant's request is construed as a withdrawal of objections to the Secretary preliminary findings. *Mysinger v. Rent-A-Driver*, 1990-STA-23 (Sec'y Sept. 21, 1990).

Accordingly, it is hereby **ORDERED** that the hearing scheduled for October 26, 2010, in Ashland, Wisconsin is **CANCELED**, the Secretary's findings are **REINSTATED**, and the above captioned matter is hereby **DISMISSED** with prejudice, pursuant to 29 C.F.R. § 1978.111(c).

**SO ORDERED.**

**A**  
THOMAS M. BURKE  
Administrative Law Judge

