



Issue Date: 27 November 2013

Case No.: 2013 STA 66

In the Matter of
DALE A. ANDERSON,
Complainant

v.

ASSOCIATED CARRIER, dba
STREET FLEET
Respondent

Appearances: Mr. Dale A. Anderson, *Pro Se* (representing himself)
For the Complainant

Mr. Joseph P. McGraw, President
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

APPROVAL OF WITHDRAWAL OF OBJECTIONS

Pursuant to a Revised Notice of Hearing, dated September 13, 2013, I set a hearing date of November 13, 2013 for his case in Minneapolis, Minnesota. On October 18, 2013, I received a letter from the Complainant, Mr. Anderson, stating in part, "I am canceling my request for an appeal."¹ In light of that correspondence, I continued the proceedings, cancelled the scheduled hearing, and issued a Show Cause Order on October 25, 2013.

Background

On March 25, 2011, Mr. Anderson filed a complaint under Section 405 of the Surface Transportation Assistance Act of 1982 ("STA"), 49 U.S.C. § 31105, alleging the Respondent, Street Fleet, had taken away his hours, refused to pay a fuel surcharge and mileage, shorted his pay, restricted his work, refused to take his calls about hazardous materials issues, incorrectly mailed his pay check, and informed other drivers that he was reporting them. OSHA designated this complaint, "OSHA Complainant, 5-4760-11-006." According to OSHA, on July 11, 2011, OSHA Complainant 5-4760-110-006 "was closed as 'withdrawn.'"

¹In his letter, Mr. Anderson refers to his complaint as "OSHA Complainant 5-4760-11-006." However, the only appeal before me from Mr. Anderson relates to OSHA Complainant 5-4760-11-007.

On November 30, 2012, Mr. Anderson filed another STA complaint, alleging that he was being harassed and treated differently since reporting violations to OSHA. OSHA designated this complaint as OSHA Complainant "5-1470-13-007." On July 29, 2013, on behalf of the Secretary, U.S. Department of Labor, ("Secretary"), OSHA issued preliminary findings and dismissed Mr. Anderson's STA complaint.

On August 28, 2013, Mr. Anderson submitted to the Office of Administrative Judges an objection to OSHA's July 2013 findings relating to his OSHA Complainant "5-14780-13-007."

Discussion

In the Show Cause Order, I provided the parties 21 days to address whether I should accept and approve Mr. Anderson' written request to cancel his appeal as a request to withdraw his objections to OSHA's (Assistant Secretary's) July 29, 2013 preliminary findings and order dismissing his STA complaint, 5-14780-13-007. On November 5, 2013, I received the Respondent's response in which Mr. McGraw agreed to the acceptance and approval of Mr. Anderson's withdrawal request. To date, I have received no response from the Complainant to the Show Cause Order.

In the absence of a response to the Show Cause Order, and a specific objection, from the Complainant, I now accept Mr. Anderson's October 10, 2013 letter cancelling his request for an appeal as a request to withdraw his objections to OSHA's (Assistant Secretary's) findings and dismissal of his STA complaint. For the same reasons, I also approve his withdrawal request.

Order

Under the provisions of 29 C.F.R. § 1978.111(c), due to the approved withdrawal of Mr. Anderson's objections, OSHA's (Assistant Secretary's) July 29, 2013 preliminary findings and dismissal of Mr. Anderson' STA complaint, 5-14780-13-007, become the final order of the Secretary.

SO ORDERED:

Richard T. Stansell-Gamm
Administrative Law Judge

Date Signed: November 26, 2013
Washington, D.C.