

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 13 March 2013

Case Number: 2013-STA-00021

In the Matter of:

**GARY A. BRENT,
Complainant,**

v.

**FEDEX,
Respondent.**

Appearances: Gary Brent, *Pro Se*
Plantation, Florida
For the Complainant

Karen Vaughan McManus, *Esq.*
Memphis, Tennessee
For the Respondent

Before:
Stephen R. Henley
Administrative Law Judge

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS
AND DISMISSAL OF CLAIM**

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

On February 13, 2012, Complainant filed a timely complaint with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) alleging his former employer, Federal Express Corporation, violated the STAA's employee protection provisions when it terminated his employment on October 16, 2011. After conducting an investigation, the OSHA's Regional Administrator issued a final determination letter on January 8, 2013. Concluding the

evidence showed Complainant was terminated due to misconduct and not engagement in protected activity, OSHA dismissed the complaint, finding no reasonable cause to believe Respondent violated the STAA. By letter dated January 27, 2013, and received this office on February 1, 2013, Complainant timely filed objections to the *Secretary's Findings and Order* dismissing the claim. By notice issued March 4, 2013, this matter is currently scheduled for formal hearing on June 25, 2013 in Orlando, Florida.

On March 12, 2013, Complainant filed a letter stating that he is "withdrawing his appeal" against Respondent.

The rules governing withdrawal of STAA complaints provide that "at any time before the ... findings and preliminary order become final, a party may withdraw its objections to the ... findings and/or preliminary order by filing a written withdrawal with the administrative law judge,"¹ who shall then determine whether to affirm any portion of the findings or preliminary order or approve the withdrawal.

No final decision has been issued in the matter. As such, upon review of the entire record, and for good cause shown, said request to withdraw is hereby GRANTED. Accordingly,

Order

IT IS HEREBY ORDERED that the hearing in the instant case scheduled for June 25, 2013 in Orlando, Florida be, and is hereby, CANCELLED.

Consistent with the regulations, the Secretary's findings are affirmed in their entirety and the above captioned matter is hereby DISMISSED with prejudice without costs awarded to either party.

SO ORDERED:

STEPHEN R. HENLEY
Administrative Law Judge

¹ 29 C.F.R. § 1978.111(c).