

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 31 March 2014

Case Number: 2013-STA-00070

In the Matter of:

**PAUL HELLERMANN,
Complainant,**

v.

**JEWEL FOOD STORES,
Respondent.**

Appearances: Paul Hellermann, *Pro Se*
Des Plaines, Illinois
For the Complainant

Nancy N. Delogu, *Esq.*
Washington, D.C.
For the Respondent

Before: Stephen R. Henley
Administrative Law Judge

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS
AND DISMISSING 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. The Secretary of Labor is empowered to investigate and determine “whistleblower” complaints filed by employees of commercial motor carriers who are allegedly discharged or otherwise discriminated against with regard to their terms and conditions of employment because the employee refused to operate a vehicle when such operation would violate a regulation, standard, or order of the United States related to commercial motor vehicles.

On April 8, 2013, Complainant filed a timely complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) alleging Respondent violated the STAA’s employee protection provisions by re-assigning work duties in reprisal for conducting a full trip inspection and for reporting safety issues. After conducting an

investigation, the OSHA's Regional Administrator issued a final determination letter on August 27, 2013 dismissing the complaint, finding that Complainant has not suffered an adverse employment action. By letter dated September 9, 2013, Complainant timely filed objections to the *Secretary's Findings* dismissing the claim. By supplemental order issued by this court on January 23, 2014, the matter is currently scheduled for formal hearing on April 8, 2014 in Chicago, Illinois.

The Rules For Implementing Section 405 of the STAA, 29 C.F.R. § 1978.111, provide that, "at any time before the findings and order becomes 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 or to approve the withdrawal.

On March 25, 2014, Complainant filed a letter stating that he is "dropping my case" against Respondent "because there is no monetary gain," which I hereby construe as a withdrawal of his objections to the Secretary's findings. As no final decision has been issued in the matter, 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 April 8, 2014 in Chicago, Illinois 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