

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 06 June 2013

Case No.: 2013-LDA-00163

OWCP No.: 02-221471

In the Matter of:

MARCHRIS A. PERKINS,

Claimant,

v.

AAR AIRLIFT/
ALLIED WORLD NATIONAL
ASSURANCE CO.,

Employer/Carrier.

**DECISION AND ORDER
APPROVING SETTLEMENT**

This action arises under the employee protection provisions of Section 405 of the Surface Transportation Assistance Act of 1982, as amended and re-codified, 49 U.S.C. § 31105, and the corresponding agency regulations, 29 C.F.R. Part 1978. Section 405 of the Act provides for employee protection from employer discrimination because the employee has engaged in a protected activity, consisting of either reporting violations of commercial motor vehicle safety rules or refusing to operate a vehicle when the operation would violate these rules.

The Complainant has submitted an unopposed motion to approve settlement and dismiss the proceeding with prejudice in accordance with a settlement agreement signed by both parties. The regulations permit voluntary settlements if the administrative law judge approves; in such cases, the approved settlement constitutes the final order of the Secretary and may be enforced as such. 29 C.F.R. §1980.111(d)(2).

A settlement approved by the administrative law judge shall constitute the final order of the Secretary and may be enforced pursuant to Section 1978.113 (Federal District Court). 29 C.F.R. § 1978.111(e).

I have reviewed the Settlement Agreement and Release signed by the parties and find that the settlement is fair, adequate and reasonable. I approve the settlement agreement as set forth

and find that dismissal, with prejudice, is appropriate. After review, it is determined that the Agreement is fair and reasonable on its face and effectuates the purposes and policies of the Act.

ORDER

The Settlement Agreement is **APPROVED** and the Complaint is **DISMISSED** with prejudice.

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) with the Administrative Review Board (“Board”) within ten (10) business days of the date of issuance of the administrative law judge’s decision. The Board’s address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210. In addition to filing your Petition for Review with the Board at the foregoing address, an electronic copy of the Petition may be filed by e-mail with the Board, to the attention of the Clerk of the Board, at the following e-mail address: ARB-Correspondence@dol.gov. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1979.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. *See* 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. *See* 29 C.F.R. § 1979.110(a).

You must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board: (1) an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party’s supporting legal brief of points and authorities. The response in opposition to the petition for review must include: (1) an original and four copies of the responding party’s legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies, unless the responding party expressly stipulates in writing to the adequacy of the appendix submitted by the petitioning party.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc