



Issue Date: 23 December 2015

Case No. 2015-STA-27

In the Matter of:
YUSUF ALI,
Complainant,

v.

OWL LOGISTICS, INC., et al.
Respondent.

**ORDER GRANTING COMPLAINANT'S WITHDRAWAL OF OBJECTIONS
AND MOTION TO DISMISS PROCEEDING AND COMPLAINT**

This proceeding arises under the employee-protection provisions of the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31101 *et seq.* and the regulations published at 29 C.F.R. Part 1978. Procedurally, this hearing will be conducted based upon the rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges at 29 C.F.R. Part 18.¹ In this case, the Complainant objected to the Secretary's findings dated January 5, 2015.

On December 16, 2015, the Complainant, through counsel, submitted his Complainant's Withdrawal of Objections and Motion to Dismiss Proceeding and Complaint. The Complainant is withdrawing his objections to the Secretary's Findings and Order and wishes to dismiss this proceeding and his complaint. Under 29 C.F.R. §1982.111(c), a party may withdraw its objections at any time before the OSHA findings become final if the Administrative Law Judge approves the withdrawal. Being duly advised, I find that the motion should be GRANTED.

¹ On May 19, 2015, the Department of Labor published final Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges ("Rules of Practice and Procedure"). 80 Fed. Reg. 28767 (May 19, 2015). The Rules of Practice and Procedure are published in Title 29, Part 18, of the Code of Federal Regulations ("C.F.R."). The C.F.R. is updated annually, on a staggered basis. Title 29 of the C.F.R. will be updated beginning July 1, 2015. Until the 2015 edition of the C.F.R. is updated to include 29 C.F.R. Part 18, I have cited to the Federal Register, 80 Fed. Reg. 28767 (May 19, 2015), when referring to the Rules of Practice and Procedure.

IT IS THEREFORE ORDERED that the “Complainant’s Withdrawal of Objections and Motion to Dismiss Proceeding and Complaint” filed on December 16, 2015, is **GRANTED**. The findings issued by OSHA on January 5, 2015, shall be the final order of the Secretary of Labor as provided by 29 C.F.R. § 1982.111(c).

IT IS FURTHER ORDERED that the hearing scheduled for January 26 – 27, 2016, is **CANCELLED**.

JOHN P. SELLERS, III
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within fourteen (14) 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, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; 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. § 1978.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1978.110(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, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1978.110(a).

If filing paper copies, 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 an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file 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. If you e-File your petition and opening brief, only one copy need be uploaded.

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 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 may include 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. If you e-File your responsive brief, only one copy need be uploaded.

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 you e-File your reply brief, only one copy need be uploaded.

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. §§ 1978.109(e) and 1978.110(b). 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. § 1978.110(b).