

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 01 June 2016

OALJ Case No.: 2015-STA-00072
OSHA Case No.: 8-0600-14-063

In the Matter of:

STEVEN GIBSON,
Complainant,

v.

BECO, INC.,
Respondent.

Appearances:

Paul O. Taylor, *Esq.*, Trucker's Justice Center, Burnsville, MN
For the Complainant

Bruce Hoger, General Manager, Beco, Inc., Commerce City, CO
For the Respondent

Before:

Morris D. Davis, Administrative Law Judge, Washington, DC

ORDER APPROVING SETTLEMENT AGREEMENT AND DISMISSING COMPLAINT

This case arises under the whistleblower protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C. § 31105 (hereinafter the "STAA" or "Act") and the regulations promulgated thereunder at 29 CFR Part 1978. Section 405 of the STAA protects employees from discharge, discipline and other forms of retaliation for engaging in protected activity, such as reporting violations of commercial motor vehicle safety rules or refusing to operate a vehicle when the operation would violate these rules or cause serious injury. The case was scheduled for hearing on April 28, 2016, in Denver, Colorado; however, prior to the hearing date the parties requested mediation and on March 16, 2016, I was informed that the parties had reached a settlement. Accordingly, the hearing was canceled and the case was continued pending submission and approval of the settlement agreement.

On May 10, 2016,¹ I received the executed Settlement Agreement and Release of Claims (“Settlement Agreement”) that the parties submitted for my review and approval. Complainant also moved for the case to be dismissed with prejudice.²

The STAA and implementing regulations provide that proceedings may be terminated on the basis of a settlement if either the Secretary or the Administrative Law Judge approves the settlement. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). Under the STAA, a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009). Consistent with this required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.” 29 C.F.R. 1978.111(d)(2). Any settlement approved by the Assistant Secretary, the ALJ or the ARB constitutes the final order of the Secretary and may be enforced pursuant to § 1978.113. 29 C.F.R. § 1978.111(e).

Having reviewed the Settlement Agreement and its provisions, which includes dismissal of the complaint with prejudice, I find that the terms, obligations, and conditions are fair, adequate and reasonable, and in the public interest. I also find Claimant and Employer understood the terms of the Settlement Agreement and that it was not procured through fraud or duress. Accordingly, I approve the parties’ settlement and the dismissal of the complaint with prejudice.³ The parties shall implement the terms of the approved settlement as specifically stated in their Settlement Agreement.

ORDER

The Settlement Agreement is **APPROVED** and this matter is **DISMISSED** with prejudice.

SO ORDERED.

MORRIS D. DAVIS
Administrative Law Judge

¹ The Settlement Agreement was originally filed with the Office of Administrative Law Judges in San Francisco, CA, where it was received on April 28, 2016. It was forwarded and arrived in my office on May 10, 2016.

² 29 C.F.R. § 1982.111(d)(1) states that at any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1982.111(e).

³ This approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.