



Issue Date: 03 October 2017

CASE NO.: 2017-STA-00030

IN THE MATTER OF

JACOB EANES,
Complainant

vs.

MCLANE FOOD SERVICE, INC.,
Respondent

**DECISION AND ORDER APPROVING SETTLEMENT AND
DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105, and implementing regulations at 29 C.F.R. Part 1978.

On December 27, 2016, Complainant Jacob Eanes filed a complaint with the Department of Labor's Occupational Safety and Health Administration (OSHA) alleging that Respondent McLane Foodservice, Inc. terminated his employment in violation of the STAA. OSHA dismissed Complainant's complaint on December 29, 2016. Complainant filed objections to the denial and requested a hearing before the Office of the Administrative Law Judges (OALJ) pursuant to 29 C.F.R. § 1978.105.

Prior to the scheduled hearing, the parties negotiated and executed a Confidential Settlement Agreement and General Release (Settlement Agreement), which Complainant signed on September 9, 2017 and Respondent signed on September 19, 2017. On September 28, 2017, the parties filed the Settlement Agreement and their Joint Motion to Approve Settlement and Dismiss Complaint with Prejudice.

The implementing regulation at 29 C.F.R. § 1978.11 l(d)(2) provides that "At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ...A copy of the settlement agreement must be filed with the administrative law judge..."

Before approving a settlement agreement, the ALJ must determine after its review that the terms of the agreement fairly, adequately and reasonably settle the Complainant's allegations. *See Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-36 (ARB Dec. 16, 2009); *Thompson v. G&W Transportation Co., Inc.*, 90-STA-25 (Sec'y Oct. 24, 1990). Once the settlement agreement is approved, it becomes the final action of the Secretary. 29 C.F.R. § 1978.111(e). The ALJ's authority over the settlement agreement is limited to the statutes that are within its jurisdiction. *Bettner v. Crete Carrier Corp.*, ARE No. 07-093, AU No. 2006-STA-033, slip op. at 2 (ARB Sept. 27, 2007).

Having reviewed the Settlement Agreement and the administrative record, this ALJ finds that the Settlement Agreement complies with the standard required under the STAA and is fair, adequate and reasonable.

Additionally, the Settlement Agreement contains a confidentiality clause providing that the parties shall keep the terms of the settlement confidential. Agreement, ¶ 10. The ALJ notes that the parties' submissions, including the Settlement Agreement becomes part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C.A. § 552. The Department of Labor's regulations provide specific procedures for responding to FOIA requests and will be followed accordingly.

Accordingly, it is ORDERED that:

1. The Settlement Agreement is APPROVED; and
2. The Complaint is hereby DISMISSED WITH PREJUDICE.

So ORDERED.

LARRY W. PRICE
Administrative Law Judge