

U.S. Department of Labor

Office of Administrative Law Judges
2 Executive Campus, Suite 450
Cherry Hill, NJ 08002

(856) 486-3800
(856) 486-3806 (FAX)



Issue Date: 11 June 2020

Case No.: 2019-STA-00072

In the Matter of

ARI BAILEY

Complainant

v.

MARTIN-BROWER TRUCKING COMPANY

Respondent

FINAL ORDER APPROVING SETTLEMENT AGREEMENT

The above-captioned arises from a complaint filed under the Surface Transportation Assistance Act (STAA), 49 U.S.C. § 31105, also referred to herein as the “Act.” Implementing regulations are published in 29 C.F.R. Part 1978. The Rules of Practice and Procedure for Administrative Hearings before this Office found at 29 C.F.R. Part 18, Subpart A also apply to matters not addressed in those implementing regulations.

The STAA prohibits an employer from retaliating against an employee because the employee engaged in protected activity. In addition, the STAA protects employees who refuse to operate a commercial motor vehicle when such operation would violate a federal safety regulation or because the employee has a reasonable apprehension of serious injury to himself or the public due to the vehicle’s unsafe condition.

On or about March 26, 2019, Ari Bailey (Complainant) filed a retaliation complaint with the Occupational Safety and Health Administration (OSHA) against Martin-Brower Trucking Company (Respondent) alleging his termination during probation violated the employee protective provisions in the Act. OSHA investigated the allegations and issued findings and an order dismissing the complaint with a finding there was no cause to believe Respondent violated the STAA. Complainant filed a request for a formal hearing with the Chief Administrative Law Judge, DOL, Office of Administrative Law Judges (OALJ). Per the Teleconference Summary And Order issued on February 28, 2020, that hearing is scheduled for June 17 – 19, 2020 in Cherry Hill, NJ and a telephonic prehearing conference is scheduled for June 3, 2020.

On June 3, 2020, Complainant electronically submitted the “Agreement And General Release” (“Settlement Agreement”) signed by both parties in this matter. Respondent later filed its “Unopposed Motion to Approve Settlement Agreement and Dismiss Case with Prejudice” also on June 3, 2020 (“Unopposed Motion”).

Pursuant to 29 C.F.R. § 1978.111(d)(2) and 29 C.F.R. § 18.71, I must approve the Settlement Agreement. In reviewing the Settlement Agreement for approval, it must be determined if its terms fairly, adequately and reasonably settle a complainant's allegations that Respondent violated the STAA and are not against public policy. *See, for e.g., Edmisten v. Ray Thomas Petroleum*, No. 10-020, 2009 WL 5178504 (ARB Dec. 16, 2009). Once the settlement agreement is approved, it becomes the final action of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.111(e).

Upon review of the administrative record and the Settlement Agreement executed by the parties, I find the parties also knowingly and voluntarily entered into the Settlement Agreement. In addition, I find the Settlement Agreement to be fair, reasonable and adequate resolution of the complaint, as well as in the public interest.

Accordingly, the following is **ORDERED**:

- Respondent's Unopposed Motion is **GRANTED**;
- The parties' Settlement Agreement is **APPROVED**;
- The prehearing conference scheduled for June 3, 2020 and the hearing scheduled for June 17 – 19, 2020 are **CANCELED**;
- The March 26, 2016 complaint filed with OSHA is **DISMISSED WITH PREJUDICE**.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey