

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 11 February 2020

CASE NO.: 2020-STA-00010

In the Matter of:

ZACHARY DELOACH,
Complainant,

v.

INDUSTRIAL STEEL FABRICATORS,
Respondent.

ORDER OF DISMISSAL

This proceeding arises from a complaint of discrimination filed under Section 405 of the Surface Transportation Assistance Act, 49 U.S.C. § 31105, (“STAA”), and the procedural regulations found at 29 C.F.R. Part 1978.

Zachary DeLoach (“Complainant”) filed a complaint with the Occupational Safety and Health Administration (“OSHA”) on or about May 16, 2019 alleging Respondent Industrial Steel Fabricators terminated his employment in retaliation for engaging in activity protected by the STAA. On October 23, 2019, OSHA dismissed the complaint because it was “unable to conclude there is reasonable cause to believe a violation of the [STAA] occurred” (“Secretary’s Findings”). On November 6, 2019, Complainant timely filed an objection to the Secretary’s Findings, and requested a hearing before an administrative law judge. The matter was assigned to me, and pursuant to a notice issued on December 20, 2019, a hearing in this case is scheduled for March 24, 2020 in St. Louis, Missouri.

Under the enforcement provisions of the STAA,

if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

49 U.S.C. § 31105(c); *see* 29 C.F.R. § 1978.114(a). In the present matter, more than 210 days have elapsed since Complainant filed his complaint with OSHA,¹ and there is no indication of bad faith on his part.

On February 6, 2020, Complainant gave notice of his intent to pursue his claims in federal court, by attaching a copy of the complaint filed in the United States District Court for the Eastern District of Missouri on February 5, 2020. In accordance with 49 U.S.C. § 31105(c), the United States District Court has assumed jurisdiction of the matter.

Accordingly, as this court no longer has jurisdiction, the complaint filed by Zachary DeLoach on May 16, 2019 is hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the formal hearing scheduled for March 24, 2020 in St. Louis, Missouri is hereby **CANCELED**.

SO ORDERED.

TIMOTHY J. McGRATH
Administrative Law Judge

Boston, Massachusetts

¹ Complainant filed his OSHA complaint on May 16, 2019. On December 12, 2019, 210 days elapsed without a final decision by the Secretary of Labor.