



Issue Date: 15 June 2020

CASE NO.: 2020-STA-00011
DOL NO.: 5-1260-19-055

In the Matter of:

KEVIN CHARLES DOSS,
Complainant,

v.

TRUCKING EXPERTS, LLC, JOHN
DOE and DENIS GRIGORJEV,
Respondents.

ORDER DISMISSING CLAIM FOR ABANDONMENT

On or about December 18, 2019, the Complainant, Kevin Charles Doss, filed a Complaint against Respondents under the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (the “Act”), alleging that the Respondents retaliated against him in violation of the employee protection provisions of the Act. On November 13, 2020, the Occupational Health & Safety Administration (“OSHA”) issued the Secretary’s Findings, informing the Complainant that it was unable to conclude that there was reasonable cause to believe that a violation of the Act had occurred. OSHA therefore dismissed the Complaint. The Complainant, by counsel, thereafter filed his objections to the Secretary’s Findings and requested a hearing before the Office of Administrative Law Judges. This case was subsequently assigned to me. On March 12, 2020, I issued an order granting the motion to withdraw as counsel of John L. Walker of Roberts Perryman, P.C. Counsel’s motion stated that Respondent Trucking Experts, LLC had ceased doing business and counsel had been unable to contact Respondent.¹

On March 30, 2020, counsel for Complainant filed a Motion to Withdraw as Complainant’s Counsel. I denied the motion by Order issued on April 13, 2020 for the reasons

¹ See my Order, counsel’s Motion to Withdraw filed January 14, 2020, letters from Mr. Walker dated January 14, 2020 and March 9, 2020, and the transcript of the telephone hearing on counsel’s motion to withdraw on January 27, 2020.

stated in the order.² On April 23, 2020, Complainant's counsel filed Response of Paul O. Taylor and Truckers' Justice Center to Order Denying Motion to Withdraw as Counsel ("Response"). The Response indicates that counsel informed Complainant by telephone on March 26, 2020 of counsel's intent to withdraw and mailed Complainant a copy of the motion to withdraw on March 27, 2020. Counsel sent the Complainant an email on April 8, 2020 asking him how he wanted to proceed in this matter. He sent two additional emails to Complainant on April 10 and April 11, 2020, again inquiring how Complainant wanted to proceed in this case. Complainant did not respond to any of these communications. On April 13, 2020 Respondent sent the Complainant an email attaching a copy of my April 13th order denying the motion to withdraw and cancelling the hearing scheduled on June 3, 2020.³ The email requested that Complainant call counsel to discuss the order. The Complainant did not respond, nor did he respond to a second email sent to Complainant on April 13th. On April 13, 2020 counsel also sent the Complainant a letter by email and by regular mail asking Complainant to call counsel "as soon as possible." The Complainant did not respond. Counsel states that the letter has not been returned as undeliverable. On April 14, 2020 counsel sent the Complainant another email asking him to inform counsel how he wanted to proceed. The Complainant did not respond to any of these communications. Counsel indicates that he telephoned the Complainant on April 21, 2020 and left a voicemail asking him to call back. Mr. Doss did not return the call. Based on the information contained in counsel's Response, on April 24, 2020 I issued an Order Granting Counsel's Renewed Motion to Withdraw as Complainant's Counsel.

On April 27, 2020, I issued an Order to Show Cause Why Claim Should not be Dismissed for Abandonment. The Order required the Claimant to respond within thirty days stating why the claim should not be dismissed. No response has been received, and the Order has not been returned by the post office as undeliverable.

The Complainant did not respond to any of counsel's attempts to communicate with him and has not responded to my Order of April 27th. No mail sent to the Claimant has been returned as undeliverable. The Administrative Review Board has stated that administrative law judges have "inherent power" to dismiss a case on their own initiative for lack of prosecution.⁴ It appears that the Complainant has abandoned his claim. Therefore, the claim will be dismissed.

THEREFORE, it is hereby **ORDERED** that the claim filed by the Complainant in this matter is hereby **DISMISSED**.

² The order requested additional information and indicated that counsel could file a renewed motion to withdraw after supplying the information. Counsel's Response includes a request to reconsider the motion to withdraw, which I treated as a renewed motion to withdraw as counsel.

³ The hearing was cancelled because of the temporary suspension of in-person hearings by the Office of Administrative Law Judges.

⁴ *Claypoole v/ U.S. Xpress Enterprises, Inc.* ARB Case No. 10-064 (April 26, 2011).

SO ORDERED.

LARRY A. TEMIN
ADMINISTRATIVE LAW JUDGE