

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

Issue Date: 13 April 2022

CASE NO.: 2021-STA-00042

In the Matter of:

**ASSISTANT SECRETARY OF LABOR
FOR OCCUPATIONAL SAFETY AND HEALTH,**
Prosecuting Party,

and

DONNA SIMONO,
Complainant,

v.

COUNTRY LIVING RETIREMENT OF MOUNTAIN HOME,
Respondent.

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

This proceeding arises from a complaint filed under the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (“STAA” or the “Act”), and the procedural regulations found at 29 C.F.R. Part 1978. On January 23, 2019, Complainant filed a complaint against Respondents, alleging that she was retaliated against in violation of STAA. On March 9, 2021, the Occupational Safety and Health Administration of the U.S. Department of Labor issued the Secretary’s Findings, finding “there is reasonable cause to believe that Respondent violated STAA and Section 11(c) of the OSH Act...”

On April 7, 2021, Respondent filed its Objection to the Secretary’s Findings, and requested a formal hearing. The matter was referred to the Office of Administrative Law Judges (“OALJ”) and was assigned to me on May 7, 2021. The formal hearing in this matter was scheduled for June 14, 2022, in Omaha, Nebraska.

On April 1, 2022, the Prosecuting Party filed a Joint Notice of Settlement along with parties’ Settlement Agreement (“Settlement Agreement”), which is incorporated by reference and

made a part of the Order. The Settlement Agreement was signed by Complainant, counsel for the Prosecuting Party, Tami Nichols on behalf of Respondent, and Respondent's counsel.

Pursuant to § 31105(b)(2)(C) of the STAA, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s findings “if the participating parties agree to a settlement and the settlement is approved by the ALJ . . . or by the ARB.” 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.” *Rantz v. The Blake School*, ARB No. 2019-0017 (Feb. 21, 2019) (per curiam).¹ Consistent with that required review, the regulations direct the parties to file a copy of the settlement agreement “with the ALJ or the Administrative Review Board as the case may be.” 29 C.F.R. § 1978.111(d)(2).

I have carefully reviewed the parties’ Settlement Agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Settlement Agreement is **APPROVED**;
2. The complaint is **DISMISSED** with prejudice; and
3. The formal hearing to be held in Omaha, Nebraska, is **CANCELLED**.

SO ORDERED.

NORAN J. CAMP
Administrative Law Judge

Boston, Massachusetts

¹ 2019 WL 3293947 at *1.