

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, DC

Issue Date: 11 October 2023

OALJ Case No: 2023-STA-00075
OSHA Case No.: 301011752

In the Matter of:

ADRIAN GARCIA,
Complainant,

v.

TBD EXPRESS, INC., ET AL.,
Respondents.

ORDER GRANTING MOTION TO WITHDRAW OBJECTIONS

This matter arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, and the regulations promulgated at 29 C.F.R. Part 1978.

On or about February 16, 2023, Complainant Adrian Garcia filed a complaint with the Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging Respondent TBD Express, Inc. terminated his employment on or about January 31, 2023 in retaliation for refusing to operate a commercial vehicle in hazardous weather. OSHA dismissed the complaint by letter dated August 9, 2023. Complainant subsequently filed objections to the determination and requested a hearing before the Office of Administrative Law Judges, which docketed the case on September 6, 2023. It is not yet scheduled for hearing.

On October 6, 2023, counsel for the Complainant filed *Motion To Withdraw Objections and Dismiss the Proceeding* (“Motion To Withdraw”). Complainant has decided not to pursue the complaint as he has learned that Respondent is out of business and no longer has operating authority from the U.S. Department of Transportation.

Discussion

The rules governing withdrawal of STAA complaints provide that “[a]t any time before the . . . findings and/or preliminary order become final, a party may withdraw its objections to the . . . findings and/or preliminary order by filing a

written withdrawal” with the administrative law judge, who shall then determine whether to affirm any portion of the findings or preliminary order or approve the withdrawal. 29 C.F.R. § 1978.111(c).

As no final decision has been issued in this matter, Complainant’s *Motion To Withdraw* is GRANTED. Consistent with the regulations, the August 9, 2023 Findings Determination becomes the final order of the Secretary of Labor. The above-captioned matter is hereby DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge