

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

Issue Date: 27 January 2023

Case No: 2023-STA-00006
OSHA Case No.: 5-1260-22-021

In the Matter of:

ISABEL TAVERAS,
Complainant,

v.

IN TIME TRANSPORT CORP.,
Respondent.

DECISION AND ORDER
GRANTING REQUEST TO WITHDRAW COMPLAINT

Background and Procedural History

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 October 22, 2021, Isabel Taveras (“Complainant”) filed a complaint with the Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging Respondent In Time Transport Corporation (“Respondent”) fired her on October 14, 2021 in retaliation for raising concerns about Electronic Recording Device tampering. OSHA dismissed the complaint by letter dated October 31, 2022.

On November 30, 2022, the Office of Administrative Law Judges (“OALJ”) docketed the above-captioned case based on Complainant’s email of the same date to OALJ stating the following:

This is an official filing of the Objection to your decision to close this complaint without any resolve whatsoever. Particularly, the fact that you were informed and provided with sufficient proof that this Corporation which, is said to appear in good standing, has violated my rights and is knowingly and illegally continuing to withhold earnings that do not belong, legally belong, to the Corporation and editing driver’s logs without their consent to the point of falsification. Regardless of this

agency's claims to be limited to the scope of evaluating whether or not the termination was valid! No jury would agree that any Corporation should be allowed to conduct business under false pretenses such as these. This has been an enormous injustice upon me and the rest of society. At this point, it is plausible to conclude that this agency serves for it's own ill intended purposes and for that reason the complaint is withdraw as I will pursue other avenues for Justice.

Given the explicit language in the email purporting to withdraw her complaint, it was unclear whether Complainant was actually requesting a formal hearing. As such, the matter was docketed and I directed a member of my staff to contact Complainant at the phone number and email addresses in the case file to try and reconcile the inconsistencies in the November 30, 2022 email. When Complainant had not responded to these outreach efforts, I issued *Notice of Docketing and Order To Show Cause* on January 18, 2023, serving Complainant at the email address used to file her November 20, 2022 appeal. Complainant was given until January 24, 2023 to explain why her appeal should not be dismissed as improvidently granted, given the specific language withdrawing her complaint. To date, Complainant has not responded, or requested an extension of time to do so.

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 November 30, 2022 request to withdraw her objections to OSHA's dismissal of her October 21, 2021 complaint is GRANTED. Consistent with the regulations, the October 31, 2022 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