

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C.

Issue Date: 28 May 2024

Case No.: 2024-STA-00051

In the Matter of

BRIAN SCHUBERT,
Complainant

v.

10 ROADS EXPRESS, LLC,
Respondent

ORDER GRANTING COMPLAINANT'S SECOND REQUEST TO WITHDRAW

This matter has been docketed for a hearing before the United States Department of Labor, Office of Administrative Law Judges (OALJ) pursuant to the employee protection provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C. § 31105, hereinafter referred to as the "Act." Implementing regulations are published in 29 C.F.R. Part 1978. The Rules of Practice and Procedure for Administrative Hearings Before the OALJ found at 29 C.F.R. Part 18, Subpart A, also apply.

On May 3, 2024, Complainant emailed my paralegal specialist, requesting the withdrawal of his claim. Complainant's email stated the following:

"I want to withdraw the complaint/appeal from the OALJ. I did not request to appeal this by going to Court. I don't agree with OSHAs findings or the appeal process before the OALJ,

Brian Schubert"

On May 3, 2024, my attorney advisor emailed Complainant requesting clarification of his request and advising of the following:

"Pursuant to 29 C.F.R. § 1978.111(c), you may withdraw your objections to the Secretary's Findings. Parties were previously advised by the Regional Administrator, Occupational Safety & Health Administration, U.S. Department of Labor that in the absence of an objection and request for a hearing before an administrative law judge, the Secretary's Findings

become final and are not subject to court review. Therefore, please be advised that if you withdraw, the Secretary's Findings as to your complaint would become unopposed and finalized. Additionally, due to the statute of limitations, your voluntary withdrawal would prevent you from filing another STAA complaint related to the retaliation alleged in this case. *See* 29 C.F.R. § 1978.103(d). This would mean that any subsequent federal STAA complaint you might later attempt to file against Respondent 10 Roads Express, LLC – related to your employment with them – may be barred as untimely.

Approval of your request to withdraw your appeal removes your objections to the Secretary's Findings and request for an administrative law judge hearing, terminating all proceedings before the Office of Administrative Law Judges. Therefore, the hearing scheduled for March 11, 2025, will be cancelled.

If you intend on withdrawing your objections, please specify that (1) you are knowingly and voluntarily requesting to withdraw your objections and appeal, and (2) you understand withdrawal would finalize the Secretary's Findings and that any subsequent federal STAA complaint you might try to file against Respondent related to your employment with Respondent may be barred as untimely. Thank you."

On May 3, 2024, Complainant responded to my Attorney Advisor's email stating the following:

"...I am knowingly and voluntarily requesting to withdraw the objections and appeal, and I understand withdrawing may finalize the Secretary's Findings and that any subsequent federal STAA complaint I might try to file against Respondent related to my employment with Respondent may be barred as untimely..."

Complainant reflected his understanding that voluntary withdrawal finalizes the Secretary's Findings and bars Complainant from filing any subsequent federal STAA complaint related to the claim in this case as it would be untimely. Based on Complainant's acknowledgments, his request for withdrawal is knowing, voluntary, and in accordance with 29 C.F.R. § 1980.111(c).

Accordingly, the request to withdraw is **GRANTED** and this case is **DISMISSED** with prejudice, terminating all proceedings before the Office of Administrative Law Judges. The hearing scheduled for March 11, 2025, is **CANCELLED**.

SO ORDERED.

DIERDRA M. HOWARD
Administrative Law Judge
Washington, D.C.