

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

Issue Date: 08 December 2023

OALJ Case No: 2024-STA-00010
OSHA Case No.: 301008018

In the Matter of:

MICHAEL A. WHITE,
Complainant,

v.

HMD, LLC,
Respondent.

ORDER OF DISMISSAL

On or about November 22, 2022, Complainant Michael A. White filed a complaint with the Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging Respondent HMD, LLC terminated his employment on or about October 27, 2022 after he placed a commercial motor vehicle out of service for driver fitness, which Complainant contended was a violation of 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. OSHA dismissed the complaint by letter dated December 2, 2022, finding no evidence that Complainant had engaged in STAA protected activity.

Complainant, representing himself, filed an appeal of the dismissal with the Office of Administrative Law Judges (“OALJ”) on December 7, 2022. However, due to a miscommunication among OALJ staff, a *Notice of Docketing* (“NOD”) was not issued until November 1, 2023.¹ Complainant was served a copy of the NOD at the email address he used to initially file his appeal with OALJ.

Given the lengthy delay in the case, the NOD requested Complainant notify OALJ within 10 days whether or not he wished to withdraw his request for a hearing. The NOD specifically advised Complainant that a failure to respond would

¹ The delay between the date of docketing and the Notice was not the fault of the parties.

be treated by the tribunal as a request to withdraw the appeal. To date, Complainant has not responded.

The rules governing withdrawal of STAA complaints provide that at any time before the OSHA findings become final, a party may withdraw its objections and the administrative law judge 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 noted, Complainant was advised that a failure to respond to the November 1, 2023 mootness check would be treated by the tribunal as a request to withdraw his objections to OSHA's December 2, 2022 findings. As no final decision has been issued in this matter, Complainant's request to withdraw his objections to the OSHA findings is hereby GRANTED. The above-captioned matter is hereby DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge