



**In the Matter of:**

**ROBERT BAILEY,**

**ARB CASE NO. 09-078**

**COMPLAINANT,**

**ALJ CASE NO. 2009-NTS-001**

**v.**

**DATE: October 12, 2011**

**GREATER CLEVELAND  
REGIONAL TRANSIT AUTHORITY,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

***For the Complainant:***

**Robert Bailey, pro se, Cleveland, Ohio**

***For the Respondent:***

**Sheryl King Benford, Esq. and Jennifer Jackson, Esq., Greater Cleveland Regional  
Transit Authority, Cleveland, Ohio**

**BEFORE: Paul M. Igasaki, Chief Administrative Appeals Judge; Joanne Royce,  
Administrative Appeals Judge; and Lisa Wilson Edwards, Administrative Appeals Judge**

**FINAL DECISION AND ORDER**

On September 10, 2008, Robert Bailey filed a complaint under the National Transit Systems Security Act, of 2007 (NTSSA), 6 U.S.C.A. § 1142 (Thomson/West Supp. 2011), alleging that the Greater Cleveland Regional Transit Authority (GCRTA) violated the NTSSA when it discharged him from employment. OSHA denied the complaint, and Bailey requested a hearing before an Administrative Law Judge (ALJ).

On February 20, 2009, Bailey moved to withdraw his NTSSA complaint because under the terms of the settlement of his union grievance, he was awarded the remedies he had requested in his complaint. The Motion to Withdraw also describes several medical and financial problems Bailey faced when he settled the grievance.

The ALJ granted the Motion to Withdraw. Recommended Decision and Order Granting Complainant's Motion to Withdraw Objections and Request for Hearing (R. D. & O.) at 3. Noting that Bailey was represented by counsel throughout his grievance process, the ALJ concluded that Bailey's request to withdraw his NTSSA claim was "knowing, intelligent, voluntary, and made without the threat of coercion." R. D. & O. at 2, citing 29 C.F.R. § 1979.111(c)(2010).

On April 29, 2009, Bailey filed with the Administrative Review Board (ARB) a Petition for Review of the ALJ's decision. The Secretary of Labor has delegated to the Board her authority to issue final agency decisions under the NTSSA. Secretary's Order No. 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924 (Jan. 15, 2010). The ARB reviews an ALJ's determinations on procedural issues under an abuse of discretion standard, i.e., whether, in ruling as he did, the ALJ abused the discretion vested in him to preside over the proceedings. *Barber v. Planet Airways, Inc.*, ARB No. 04-056, ALJ No. 2002-AIR-019, slip op. at 8 (ARB Apr. 28, 2006).

Bailey requests that we reverse the ALJ's ruling because GCTRA engaged in "misleading and untruthful" behavior both during and following the grievance process. Petition for Review at 1. But Bailey does not describe any behavior that coerced him into withdrawing his NTSSA claim. And as the ALJ explained, "[Bailey's] alleged financial and medical needs do not render his request involuntary or made under coercion or duress." R. D. & O. at 3.

The record before us indicates that Bailey freely decided to request withdrawal of his NTSSA claim following settlement of his union grievance. He has failed to demonstrate how the ALJ erred in granting his request. Accordingly, we **AFFIRM** the ALJ's R. D. & O and **DISMISS** the complaint.

**SO ORDERED.**

**LISA WILSON EDWARDS**  
**Administrative Appeals Judge**

**PAUL M. IGASAKI**  
**Chief Administrative Appeals Judge**

**JOANNE ROYCE**  
**Administrative Appeals Judge**