



In the Matter of:

NICHOLAS F. DAIGLE,

ARB CASE NO. 05-025

COMPLAINANT,

ALJ CASE NO. 2004-STA-42

v.

DATE: April 30, 2007

UNITED PARCEL SERVICE,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C.A. § 31105 (West 1997). Section 31105 provides protection from discrimination to employees who report violations of commercial motor vehicle safety rules or who refuse to operate a vehicle when such operation would violate those rules. Nicholas F. Daigle alleges that his former employer, United Parcel Service (UPS), violated the STAA when it fired him because he complained that his package delivery truck was overweight and “the extra weight would reduce the vehicle’s handling.” R. D. & O. at 8. After a hearing, a Department of Labor Administrative Law Judge (ALJ) concluded that UPS did not violate the STAA because she found that UPS fired Daigle for “dishonest manipulation and fabrication of his delivery records and performance deficiencies.” Therefore, she recommended that Daigle’s complaint be dismissed. Recommended Decision and Order (R. D. & O.) at 17-18. The Administrative Review Board automatically reviews an ALJ’s recommended STAA decision. 29 C.F.R. § 1978.109(c)(1).

JURISDICTION AND STANDARD OF REVIEW

We have jurisdiction to decide this matter by authority of 49 U.S.C.A. § 31105(b)(2)(C) (West 1997) and 29 C.F.R. § 1978.109(c)(2006). Under the STAA, the Administrative Review Board is bound by the ALJ’s factual findings if substantial

evidence on the record considered as a whole supports those findings. 29 C.F.R. § 1978.109(c)(3); *BSP Transp., Inc. v. U.S. Dep't of Labor*, 160 F.3d 38, 46 (1st Cir. 1998); *Castle Coal & Oil Co., Inc. v. Reich*, 55 F.3d 41, 44 (2d Cir. 1995). Substantial evidence is that which is “more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clean Harbors Env'tl. Servs. v. Herman*, 146 F.3d 12, 21 (1st Cir. 1998) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)). In reviewing the ALJ's conclusions of law, the Board, as the Secretary's designee, acts with “all the powers [the Secretary] would have in making the initial decision” 5 U.S.C.A. § 557(b) (West 1996). *See also* 29 C.F.R. § 1978.109(b). Therefore, the Board reviews the ALJ's conclusions of law de novo. *Roadway Express, Inc. v. Dole*, 929 F.2d 1060, 1066 (5th Cir. 1991).

DECISION

The ALJ's decision thoroughly and fairly recites the relevant facts underlying this dispute. We have reviewed the record and find that substantial evidence on the record as a whole supports the ALJ's findings. Those findings are therefore conclusive. 29 C.F.R. § 1978.109(c)(3). The ALJ's decision is in accordance with law. Accordingly, we adopt and attach the ALJ's R. D. & O. and **DENY** Daigle's complaint.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge