



In the Matter of:

PAUL REHMERT,

ARB CASE NO. 09-028

COMPLAINANT,

ALJ CASE NO. 2009-STA-005

v.

DATE: June 30, 2009

DAWN TRUCKING COMPANY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER OF DISMISSAL

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended.¹ Paul Rehmert filed a complaint with the Department of Labor's Occupational Safety and Health Administration (OSHA) alleging that Dawn Trucking Company discharged him in violation of the STAA.

OSHA investigated the complaint and found that Dawn Trucking Company had not violated the STAA. Rehmert objected to OSHA's findings and requested a hearing before an Administrative Law Judge (ALJ). The ALJ issued a Notice of Hearing setting the hearing date for December 4, 2008. On October 28, 2008, Rehmert submitted a letter to the ALJ stating that he wished to withdraw his objections to OSHA's findings. On November 14, 2008, the ALJ issued a Recommended Order Dismissing Complaint, dismissing Rehmert's STAA claim.

¹ 49 U.S.C.A. § 31105 (West 2008), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, 121 Stat. 266 (Aug. 3, 2007). Section 405 of the STAA 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.

This case is now before the Administrative Review Board (ARB) pursuant to the STAA's automatic review provisions.² The ARB is bound by the ALJ's factual findings if supported by substantial evidence on the record considered as a whole.³ The ARB reviews questions of law de novo.⁴

On December 9, 2008, the Board issued a Notice of Review and Briefing Schedule reminding the parties of their right to file briefs with the Board in support of or in opposition to the ALJ's recommended order within thirty days of the date on which the ALJ issued it.⁵ Neither party filed a brief.

Rehmert has not objected to the ALJ's decision to recommend dismissal of his STAA case, and we know of no reason to reject the ALJ's recommended decision. Accordingly, Rehmert's case is hereby **DISMISSED** with prejudice.

SO ORDERED.

WAYNE C. BEYER
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge

² 49 U.S.C.A. § 31105(b)(2)(C). The STAA's implementing regulations provide: "The [ALJ's] decision shall be forwarded immediately, together with the record, to the Secretary for review by the Secretary or his or her designee." 29 C.F.R. § 1978.109(c)(1) (2007).

³ 29 C.F.R. § 1978.109(c)(3); *BSP Trans, 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).

⁴ *See Roadway Express, Inc. v. Dole*, 929 F.2d 1060, 1066 (5th Cir. 1991).

⁵ *See* 29 C.F.R. § 1978.109(a).