



In the Matter of:

DWIGHT ODOM,

ARB CASE NO. 09-043

COMPLAINANT,

ALJ CASE NO. 2008-STA-033

v.

DATE: September 24, 2009

**TFE LOGISTICS GROUP, INC. and
INTERNATIONAL MANAGEMENT
SERVICES COMPANY,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL DECISION AND ORDER
DISMISSING COMPLAINT WITH PREJUDICE**

This matter arises under the Surface Transportation Assistance Act of 1982 (STAA),¹ and its implementing regulations.²

On December 2, 2008, the parties filed a Stipulation of Dismissal With Prejudice By and Between Dwight Odom and TFE Logistics Group, Inc. and International Management Services Company with the Office of Administrative Law Judges (OALJ). The parties stipulated that they had resolved their dispute and that the case could be dismissed with prejudice.

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.

² 29 C.F.R. Part 1978 (2006).

The ALJ issued a Recommended Order of Dismissal (R. O. D.) stating that the parties had stipulated to dismissal based on the resolution of all of the issues in the claim. The ALJ further stated that the Complainant had submitted a withdrawal as required under 29 C.F.R. § 1978.111. The ALJ accepted the withdrawal consistent with the regulation. He transmitted the documents relevant to the order on review, including the Parties' Stipulation of Dismissal and the R. O. D. to the Administrative Review Board (ARB).³

The case is now before the ARB pursuant to the STAA's automatic review provisions.⁴ The ARB "shall issue a final decision and order based on the record and the decision and order of the administrative law judge."⁵ 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.⁶ Neither party filed a brief.

The ALJ's R. O. D. complies with applicable STAA statutory and regulatory provisions. The STAA's implementing regulation at 29 C.F.R. § 1978.111(c) provides:

At any time before the findings or order become final, a party may withdraw his objections to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the Administrative Review Board, United States Department of Labor. The judge or the Administrative Review Board, United States Department of Labor, as the case may be, shall affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn.⁷

Consistent with 29 C.F.R. § 1978.111(c), the ALJ recommended that Odom's claim be dismissed based on a stipulation by the parties that all of the issues in the claim had been resolved. Indeed, the joint filing of the parties indicates that they resolved their dispute and stipulated to the dismissal with prejudice of Odom's claim.

³ The ALJ did not transfer the remainder of the record to the Board because there is a companion case scheduled for hearing.

⁴ 49 U.S.C.A. § 31105(b)(2)(C); *see* 29 C.F.R. § 1978.109(c)(1).

⁵ 29 C.F.R. § 1978.109(c); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 2000-STA-050, slip op. at 2 (ARB Sept. 26, 2001).

⁶ *See* 29 C.F.R. § 1978.109(a).

⁷ 29 C.F.R. § 1978.111(c).

CONCLUSION

Neither party has objected to the ALJ's decision to recommend dismissal of this claim, and we know of no reason to reject the ALJ's recommended decision. Accordingly, Odom's claim is hereby **DISMISSED** with prejudice.

SO ORDERED.

WAYNE C. BEYER
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge