



In the Matter of:

JEFFREY MOORE,

ARB CASE NO. 10-054

COMPLAINANT,

ALJ CASE NO. 2009-STA-075

v.

DATE: March 18, 2010

INNOVATIVE DRIVER SERVICES,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

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

Jeffrey Moore complained that Innovative Driver Services violated the employee protection provision of the Surface Transportation Assistance Act of 1982 (STAA),¹ and its implementing regulations,² when it refused to assign him work after he complained about unsafe equipment. Following an investigation of this complaint, the Occupational Safety and Health Administration (OSHA) concluded that there was no reasonable cause to believe that Innovative Driver Services violated the STAA. Accordingly, OSHA dismissed the complaint.

¹ 49 U.S.C.A. § 31105 (Thomson/West Supp. 2009). 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 (2009).

Moore objected to OSHA's findings and requested a hearing before a Department of Labor Administrative Law Judge (ALJ).³ The ALJ assigned to the case scheduled a hearing, but before the hearing took place, the parties reached a settlement agreement.⁴ The parties submitted the settlement agreement to the ALJ, and he issued an order recommending approval of the settlement agreement and dismissing the case on February 4, 2010.

The case is now before the ARB pursuant to the STAA's automatic review provisions.⁵ The ARB "shall issue the final decision and order based on the record and the decision and order of the administrative law judge."⁶

The ARB issued a Notice of Review and Briefing Schedule reminding the parties of their right to submit briefs in support of or in opposition to the ALJ's order. Neither party submitted a brief.

Under the regulations implementing the STAA, the parties may settle a case at any time after filing objections to OSHA's preliminary findings, and before those findings become final, "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board [ARB]"⁷ Accordingly, we review the settlement to determine whether the settlement agreement constitutes a fair, adequate, and reasonable settlement of Moore's STAA complaint.

The ARB agrees with the ALJ's determination that the parties' settlement agreement constitutes a fair, adequate, and reasonable settlement of Moore's STAA complaint, and none of the parties allege otherwise. We note, however, that the settlement agreement may encompass the settlement of matters under laws other than the STAA.⁸ The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to Moore's current STAA case.⁹

³ See 29 C.F.R. § 1978.105.

⁴ See Settlement Agreement and Release of Claims (Agreement).

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

⁶ 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).

⁷ 29 C.F.R. § 1978.111(d)(2).

⁸ See Agreement, paras. B, C, H.

⁹ *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 2000-STA-056, slip op. at 2 (ARB Apr. 30, 2003).

Finally, the settlement provides that the agreement shall be governed and construed under the laws of the state of Tennessee.¹⁰ We construe this choice of law provision as not limiting the authority of the Secretary of Labor and any federal court, which shall be governed in all respects by the laws and regulations of the United States.¹¹

The parties have indicated that the Agreement constitutes the entire settlement with respect to Moore's STAA claim. The ARB finds that the settlement is fair, adequate, and reasonable. Accordingly, as construed, we **APPROVE** the ALJ's recommended order and **DISMISS** Moore's complaint with prejudice.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

¹⁰ Agreement, para. P.

¹¹ *Trucker v. St. Cloud Meat & Provisions, Inc.*, ARB No. 08-080, ALJ No. 2008-STA-023, slip op. at 3 (ARB May 30, 2008).