



In the Matter of:

FERNANDO WHITE,

ARB CASE NO. 10-133

COMPLAINANT,

ALJ CASE NO. 2006-STA-048

v.

DATE: January 25, 2012

GRESH TRANSPORT, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Luis A. Corchado, *Administrative Appeals Judge*, Joanne Royce, *Administrative Appeals Judge*

FINAL DECISION AND ORDER

This case arises under the whistleblower protection provisions of the Surface Transportation Assistance Act (Act) of 1982 (STAA), as amended and re-codified, 49 U.S.C.A. § 31105 and implementing regulations at 29 C.F.R. Part 18.1 *et seq.* (2011) and 29 C.F.R. Part 1978.100, *et seq.* (2010). The STAA whistleblower provisions prohibit discriminatory actions taken against an employee because the employee engaged in STAA-protected whistleblower activity.

White alleged that Gresh Transport, Inc. (Gresh Transport) violated the STAA's employee protection provisions, when Gresh terminated his employment after he refused to drive an unsafe truck and complained about safety issues.¹ On April 27, 2010, the Administrative Law Judge (ALJ) issued a Recommended Summary Decision and Order

¹ *White v. Gresh Transp., Inc.*, ALJ No. 2006-STA-048, slip op. at 1 (ALJ Apr. 27, 2010).

(R. D. & O.) granting White's Motion for Summary Decision against Gresh. We affirmed the ALJ's R. D. & O.²

On June 3, 2010, Paul Taylor, Esq., filed an itemized petition for attorney fees with the ALJ in White's case. On July 6, 2010, the ALJ issued an order to show cause why the attorney fee petition should not be granted in favor of White. Gresh did not respond to the order to show cause. Thus, on August 4, 2010, the ALJ issued a Recommended Order Awarding Attorney Fees in the total amount of \$9,185.00.

Pursuant to 29 C.F.R. Part 1978.109(a) (2010), this decision and the record were forwarded immediately to the Administrative Review Board (the Board) for review and to issue a final decision.³ On August 16, 2010, the Board issued a notice of review and briefing schedule. White responded to the notice that he fully supported the ALJ's decision awarding fees and did not plan to file a brief. Gresh did not respond to the Board's notice.

Gresh did not object to the ALJ's Recommended Order Awarding Attorney Fees. We find the request to be reasonable. Therefore, we summarily affirm the ALJ's order.

SO ORDERED.

LUIS A. CORCHADO
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

² *White v. Gresh Transp., Inc.*, ARB No. 10-096, ALJ No. 2006-STA-048 (ARB Aug. 30, 2011).

³ The regulations have been amended since this case was filed such that appeals are no longer automatic. Under the new regulation at 29 C.F.R. Part 1978.110 (2011), any party seeking review of an ALJ decision must file a written petition for review with the Board.