



In the Matter of:

RICHARD TABLAS,

**ARB CASE NOS. 11-050
13-091**

COMPLAINANT,

ALJ CASE NO. 2010-STA-024

v.

DATE: May 30, 2014

DUNKIN DONUTS MID-ATLANTIC,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

FINAL DECISION AND ORDER

This case arises under the Surface Transportation Assistance Act (STAA or Act) of 1982, as amended, 42 U.S.C.A. § 31105 (Thomson/West Supp. 2013), and its implementing regulations, 29 C.F.R. Part 1978 (2013). The STAA whistleblower provisions prohibit discriminatory actions taken against an employee partly or entirely because the employee engaged in STAA-protected whistleblower activity.

Tablas alleged that Dunkin Donuts Mid-Atlantic (Dunkin Donuts) violated the STAA's employee protection provisions when it terminated his employment. On April 27, 2010, an Administrative Law Judge (ALJ) issued a decision and order (D. & O.) dismissing Tablas's complaint. The Administrative Review Board (ARB or the Board), entered an order reversing the ALJ's Order, and we remanded the case to the ALJ to determine whether Dunkin Donuts could show, by clear and convincing evidence that it

would have terminated Tablas's employment absent his protected acts.¹ After further briefing on remand, the ALJ entered an order on August 12, 2013, determining that there was clear and convincing evidence that Dunkin Donuts would have terminated Tablas's employment even absent his protected activity. Tablas again petitioned for review. We reversed because we found that the evidence of record was insufficient to support a finding by clear and convincing evidence that Respondent would have fired Tablas absent his protected activity. Thus, we remanded for the ALJ to determine the issue of damages. In our order, we provided that Tablas's attorney had 30 days from receipt of it in which to file a fully supported attorney's fee petition with the ARB, with simultaneous service on opposing counsel. Thereafter, Dunkin Donuts had 30 days from its receipt of the fee petition to file a response.

On March 27, 2014, Paul Taylor, Esq., Tablas's counsel, filed with the ARB, an itemized petition for attorney's fees for proceedings before the ARB. Dunkin Donuts did not file a response. As Dunkin Donuts did not object to Tablas's request for attorney's fees, we approve a fee award in the amount of \$26,661.24 for work performed before the ARB, as sought by Tablas's counsel.²

SO ORDERED.

JOANNE ROYCE
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

¹ ARB Decision and Order of Remand (dated Apr. 25, 2013) (ARB Order of Rem.).

² Tablas's counsel also requested fees for work performed before the ALJ and OSHA, but any fees for these other matters are for the ALJ to determine. 29 C.F.R. § 1978.109(d)(1).