



WALTER ABBS,

ARB CASE NO. 12-016

COMPLAINANT,

ALJ CASE NO. 2007-STA-037

v.

DATE: June 11, 2013

CON-WAY FREIGHT, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Walter Abbs, Sturgis, Michigan

For the Respondent:

Robin E. Shea, Esq., *Constangy, Brooks & Smith, LLP*; Winston-Salem, North Carolina; Daniel E. Egeler, Esq., *Con-Way Freight, Inc.*, Ann Arbor, Michigan

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

ORDER DENYING MOTION FOR RECONSIDERATION

On October 17, 2012, the Administrative Review Board (ARB) issued a Final Decision and Order in this case arising under the whistleblower protection provisions of the Surface Transportation Assistance Act of 1982 (STAA), as amended and recodified, 49 U.S.C.A. § 31105 (Thomson/Reuters 2013). The ARB affirmed the Administrative Law Judge's order granting the Respondent's motion for summary decision and thus dismissed Walter Abbs's STAA complaint. *See Abbs v. Con-Way Freight, Inc.*, ARB No. 12-016, ALJ No. 2007-STA-037 (ARB Oct. 17, 2012).

Abbs moves for reconsideration of the ARB's Final Decision and Order. The Respondent has filed a brief in opposition to which Abbs has filed a reply.¹ The ARB is authorized to reconsider a decision upon the filing of a motion for reconsideration within a reasonable time of the date on which the Board issued the decision. The ARB applies a four-part test to determine whether the movant has demonstrated: (1) material differences in fact or law from that presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in law after the court's decision, and (iv) failure to consider material facts presented to the court before its decision.² Upon review of Abbs's motions, the Respondent's brief in opposition, and Abbs's reply brief, we determine that Abbs's motion fails to demonstrate any ground for reconsideration.³ Accordingly, we **DENY** the motion for reconsideration.

SO ORDERED.

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

¹ Abbs filed *pro se* two motions for reconsideration, on November 1 and 7, 2012, that differ one from the other. The Respondent filed its brief in opposition on November 19, 2012. On November 26, 2012, counsel for Abbs, Donald F. Foley and Marie Castetter, filed a Motion to Withdraw Appearances. We grant counsels' motion.

² *Toland v. FirstFleet, Inc.*, ARB No. 09-091, ALJ No. 2009-STA-011 (ARB Mar. 8, 2011); *Henrich v. Ecolab, Inc.*, ARB No. 05-030, ALJ No. 2004-SOX-051 (ARB May 30, 2007); *Getman v. Southwest Secs., Inc.*, ARB No. 04-059, ALJ No. 2003-SOX-008 (ARB Mar. 7, 2006).

³ *See Abdur-Rahman v. DeKalb County*, ARB Nos. 08-003, 10-074; ALJ Nos. 2006-WPC-002, -003; slip op. at 4 (ARB Feb. 16, 2011).