



In the Matter of:

NATHAN W. CLARK,

ARB CASE NO. 13-023

COMPLAINANT,

ALJ CASE NO. 2011-STA-007

v.

DATE: July 24, 2014

HAMILTON HAULING, LLC,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Glen C. Shults, Esq.; Law Offices of Glen C. Shults, Asheville, North Carolina

For the Respondents:

Jonathan W. Yarbrough, Esq.; Constangy, Brooks & Smith, LLP; Asheville, North Carolina

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 PANEL RECONSIDERATION

This case arises under the Surface Transportation Assistance Act (STAA or Act) of 1982, as amended, 49 U.S.C.A. § 31105 (Thomson/Reuters Supp. 2014), and implementing regulations, 29 C.F.R. Part 1978 (2013). Nathan Clark, a truck driver, filed a complaint with the Occupational Safety and Health Administration on March 15, 2010, alleging that his employer, Hamilton Hauling, LLC, terminated his employment in violation of the STAA. On May 29, 2014, the Administrative Review Board (Board) entered a final decision and order affirming the decision by the Administrative Law Judge (ALJ) dismissing Clark's STAA complaint.

On July 2, 2014, Clark moved for panel reconsideration.¹ The Board generally applies the following criteria to determine whether the movant has shown:

- (i) material differences in fact or law from that presented to the Board of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the Board's decision, (iii) a change in the law after the Board's decision, and (iv) failure to consider material facts presented to the Board before its decision.

Friedman v. Columbia Univ., ARB No. 12-089, ALJ No. 2012-ERA-008, slip op. at 2 (ARB Jan. 22, 2014) (Order Denying Reconsideration). On review of Clark's motion, we fail to find that he has shown that the panel decision warrants reconsideration. As determined in the ARB's May 29, 2014, Decision and Order in this case, the ALJ's decision is fully supported by substantial evidence, and any conflicting evidence was fully reconciled by the ALJ.

CONCLUSION

The motion for panel reconsideration is **DENIED**.

SO ORDERED.

LISA WILSON EDWARDS
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

¹ By that same motion, Clark requested that the full Board grant *en banc* review. The Board's decision on Clark's request for *en banc* review is set out by separate Order. See *Clark v. Hamilton Hauling LLC*, ARB No. 13-023, ALJ No. 2011-STA-007 (ARB July 24, 2014) (Order Denying Request for *En Banc* Review).