

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 12 August 2005

CASE NO. : 2005-AIR-17

IN THE MATTER OF

NEWTON R. DICKSON

Complainant

v.

CONTINENTAL AIRLINES

Respondent

**ORDER GRANTING MOTION TO ABATE
AND WITHDRAW COMPLAINT**

This proceeding arises under the employee protective provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (herein AIR 21), 49 U.S.C. § 42121, et seq., Public Law 106-181, Title V §§ 519 and the regulations thereunder at 29 C.F.R. Part 24.

A formal hearing in this matter is presently scheduled for September 27, 2005, in Houston, Texas, based on Complainant's appeal of the Secretary of Labor's findings dismissing his complaint against Respondent.

On August 11, 2005, by facsimile, Complainant filed an "Unopposed Motion to Abate and For Leave for Withdrawal of Claim" without prejudice to refiling (sic) in a court of competent jurisdiction and venue.

Complainant seeks "abatement of this cause because all necessary parties are not present in this case and are not amenable (sic) to service or jurisdiction of this Court." Further, Complainant requests withdrawal of his complaint because he no longer wishes to prosecute his administrative complaint against Respondent.

The regulation at 29 C.F.R. § 1979.111(c) states that "at any time before the findings or order become final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge. . . ." Complainant has submitted such a withdrawal in the form of a request for dismissal without prejudice. As Respondent has not objected, Complainant's request is hereby accepted and, consistent with the regulations, his complaint is **HEREBY DISMISSED**.

The formal hearing scheduled for September 27, 2005, is hereby **CANCELLED**.

ORDERED this 12th day of August, 2005, at Metairie, Louisiana.

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LEE J. ROMERO, JR.
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. See 29 C.F.R. § 1979.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. See 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety

and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. See 29 C.F.R. § 1979.110(a).

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. See 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).