

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 19 June 2006

Case No.: 2005-AIR-24

In the Matter of

THOMAS GENE ELDER,
Complainant

vs.

LJR ENTERPRISES, LTD.
d/b/a GOLDSTAR INTERNATIONAL AVIATION, INC.,
GOLDSTAR EMS II, INC.,
Respondent.

DECISION AND ORDER

This matter arises under the employee protection provision of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act of the 21st Century, 49 U.S.C. §42121 (“AIR 21” or “Act”). A hearing in this matter was scheduled for July 18, 2005 in Houston, Texas. On June 30, 2005, a Joint Motion for Continuance and Request for Revised Scheduling Order was filed and the Court reset this matter for November 1, 2005. On October 10, 2005, a Second Joint Motion for Continuance and Request for Revised Scheduling Order was filed and again the Court reset this matter to January 23, 2006. On October 11, 2005 Respondents filed a Notice of Bankruptcy and Automatic Stay in this matter. On November 22, 2005, this Court issued a Show Cause order to Complainant as to why Respondent’s motion to stay should not be granted. On December 9, 2005, Complainant filed a response and on December 14, 2005 Respondent filed a reply. Following the filings, the undersigned issued a Ruling and Order wherein he granted Respondent’s Motion to Stay.

On June 2, 2006, the parties filed a Joint Motion to Lift Stay to Settle With Insurance Proceeds/Motion to Dismiss. In support of said motion, counsel submits that the parties at issue have decided to settle the case currently on file before the Administrative Board as well as other actions in state district court. The parties have submitted exhibits wherein orders have been issued granting the parties relief from the

stay on order to settle with insurance proceeds. In furtherance, the parties move to dismiss with prejudice the claim pending before the Administrative Law Judges.

The regulations at 29 C.F.R. § 1979.11(c) states that “at any time before the finding or order becomes final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge...” The parties have jointly submitted such a withdrawal in the form of a request for dismissal with prejudice. Accordingly, the joint request is accepted and, consistent with the regulation, the complaint is dismissed with prejudice and the stay issued by this Court is lifted to allow the parties herein to settle their cause with insurance proceeds.

So ORDERED.

A

PATRICK M. ROSENOW
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).

