



**Issue Date: 15 October 2004**

Case No.: 2004-STA-59

In the Matter of:

DAVID DAVIDSON  
Complainant

v.

ROADWAY EXPRESS, INC.  
Respondent

**DECISION AND ORDER GRANTING WITHDRAWAL OF COMPLAINT**

A hearing was scheduled in the above-styled matter for December 14, 2004, in the U.S. Courthouse & Federal Building, Akron, Ohio, pursuant to a Notice of Hearing I issued on September, 28, 2004. On October 8, 2004, the complainant submitted a request to withdraw his complaint in this case, stating that: the legal matters involved are more difficult than he anticipated; he is presently engaged in discussions with the employer's human resources department; and, he is hopeful that they can resolve their differences through those discussions.

Withdrawal of objections to the Assistant Secretary's findings or order are permitted, under 29 C.F.R. § 1978.111. When permitted, the judge or Board "shall affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn." *Id.* The regulation distinguishes this procedure from requests for withdrawal made at an earlier point in the proceeding. However, the regulation does not appear to explicitly preclude judges granting overall withdrawal of the complaint, as subsection 1978.111(c) permits withdrawal of objections. Withdrawal of objections as opposed to withdrawal of the complaint, requires affirmance of the now uncontested findings.

Based on the foregoing, I interpret the complainant's request as one to withdraw his objections. Thus, I must affirm the Secretary's August, 2004, Findings, reflecting dismissal of the complaint.

**ORDER**

WHEREFORE, IT IS ORDERED THAT:

1. The scheduled hearing is cancelled;

2. The Complainant's request to withdraw his complaint is granted; and,
3. The Secretary's August, 2004 Findings are affirmed.

**A**

RICHARD A. MORGAN  
Administrative Law Judge