



In the Matter of:

ROGER H. MONROE,

ARB CASE NO. 01-085

COMPLAINANT,

ALJ CASE NO. 01-STA-42

v.

DATE: September 28, 2001

CUMBERLAND TRANSPORTATION CORP.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

Appearances:

For the Complainant:

Roger H. Monroe, *pro se*, Bridgeport, New York

For the Respondent:

Stephen J. Vollmer, Esq., *Bond, Schoeneck & King, LLP*, Syracuse, New York

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING THE CASE**

Roger H. Monroe filed a complaint alleging that Cumberland Transportation Corporation (Cumberland) violated the employee protection provisions of the Surface Transportation Assistance Act of 1982 (STAA), as amended and recodified, 49 U.S.C.A. §31105 (West 1997), and the implementing regulations at 29 C.F.R. Part 1978 (2000). Monroe and Cumberland seek approval of their settlement agreement and dismissal of the case.

BACKGROUND

On June 29, 2001, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order in *Monroe v. Cumberland Transportation Corp.*, ALJ No. 2001-STA-00042 ("*Monroe I*"), finding that Monroe failed to file a timely complaint and recommending that Monroe's complaint be dismissed. As provided in 29 C.F.R. § 1978.109(a), the ALJ forwarded the case to the Administrative Review Board for review and to issue a final order. We docketed the appeal in *Monroe I* as ARB No. 01-085.

^{1/} This Appeal has been assigned to a panel of two Board members, as authorized by Secretary's Order 2-96. 61 Fed. Reg. 19,978 §5 (May 3, 1996).

Monroe also filed a complaint against Cumberland under the STAA, alleging that the company had blacklisted him. This case (“*Monroe II*”) was docketed as ALJ No. 2000-STA-0050 and was assigned to a Department of Labor ALJ for hearing. On the day set for hearing in *Monroe II*, Monroe and Cumberland negotiated an agreement which provided for the settlement and dismissal of both *Monroe II* (pending before the ALJ) and *Monroe I* (pending before the ARB).

On September 13, 2001, the ALJ issued a Decision and Order Approving Settlement Agreement and Dismissing Complaint in *Monroe II*,^{2/} and on September 18, 2001, he issued an Erratum. We now consider the effect of the settlement agreement on *Monroe I*, which was pending before us when Monroe and Cumberland negotiated the settlement.^{3/}

DISCUSSION

Pursuant to STAA §31105(b)(2)(C), “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s preliminary findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. §1978.111(d)(2). The regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.* In this case, at the time the parties reached a settlement, the ALJ had issued the Recommended Decision and Order and forwarded the case to this Board. Therefore, we are the appropriate body to review the settlement agreement as it pertains to the disposition of *Monroe I*.

We have reviewed the settlement and find the settlement terms to be reasonable. Accordingly, we **APPROVE** the settlement and **DISMISS** this case.

SO ORDERED.

PAUL GREENBERG
Chair

E. COOPER BROWN
Member

^{2/} The complaint in *Monroe II* was actually filed prior to the complaint in *Monroe I*, but the ALJ issued his Recommended Decision and Order in *Monroe I*, prior to approving the settlement in *Monroe II*.

^{3/} Pursuant to the STAA’s automatic review requirements, 29 C.F.R. § 1978.109(a),(c), we docketed *Monroe II* as ARB No. 01-101. On September 26, 2001, in light of the ALJ’s approval of the settlement, we issued a Final Decision and Order dismissing the case. *Accord Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).