

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 19 May 2009

CASE NO.: 2009-AIR-4

IN THE MATTER OF

MITCHELL R. WHATLEY

Complainant

v.

AMERICAN AIRLINES, INC.

Respondent

ORDER OF DISMISSAL

On October 2, 2008, Complainant, Mitchell R. Whatley, filed a complaint against Respondent, American Airlines, Inc. under Section 519 of the Wendell H. Ford Aviation and Investment Reform Act For the 21st Century, 49 U.S.C. §42121 (AIR 21), with the Occupational Safety and Health Administration (OSHA). OSHA determined that Respondent had not violated the Act and dismissed the Complaint. On November 14, 2008, Complainant filed objections and a request for formal hearing. A formal hearing in this matter is currently scheduled to commence on June 16, 2009, in Dallas, Texas.

On May 14, 2009, Counsel for Complainant advised that Complainant received significant relief through the parties' arbitration process including restoration of his pay and sick leave benefits. Accordingly, the parties have filed a "Stipulation of Dismissal With Prejudice" pursuant to Rule 41 of the Federal Rules of Civil Procedure consenting and stipulating to the dismissal of the above-captioned matter with prejudice to re-filing. The Stipulation is construed to be a request to withdraw Complainant's objections to OSHA's findings and his request for hearing and to dismiss his case.

Pursuant to 29 C.F.R. §1979.111(c), "a party may withdraw his or her objections to the findings or order [of OSHA] by filing a written withdrawal with the administrative law judge." Complainant consents to the dismissal of this case with prejudice. Respondent has joined in the Stipulation of Dismissal. Accordingly, the parties' Stipulation of Dismissal with Prejudice is hereby **GRANTED** and this case is dismissed with prejudice.

In view of the foregoing, the formal hearing currently scheduled for June 16, 2009, in Dallas, Texas is hereby **CANCELLED**.

ORDERED this 19th day of May, 2009, at Covington, 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, Suite S-5220, 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).