



**Issue Date: 26 February 2010**

OALJ CASE NO.: 2010-AIR-00006

*In the Matter of:*

**JAMES B. EDWARDS,**  
Complainant,

v.

**KEY LIME AIR,**  
Respondent.

**ORDER APPROVING COMPLAINANT'S WITHDRAWAL OF OBJECTIONS TO  
SECRETARY'S FINDINGS AND DISMISSING  
HIS AIR 21 COMPLAINT, AND ORDER CANCELLING HEARING**

This case arose when the complainant, James B. Edwards ("Complainant"), filed a complaint under the employee protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR 21"), 49 U.S.C.A. § 42121, alleging that his employer, Key Lime Air ("Respondent"), constructively discharged his employment after he refused to take a flight due to fatigue.

On November 16, 2009, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration, (Secretary) issued a Notice of Determination containing specific factual findings and legal conclusions which resulted in the dismissal of the complaint in this case (the "Secretary's Findings").

On November 30, 2009, Complainant objected to the Secretary's Findings and requested a hearing before this Office. This case is set for hearing on March 15, 2010 in Denver, Colorado.

On February 19, 2010, Complainant filed his Withdrawal of Objections to Findings stating that pursuant to 29 C.F.R. Section 1979.111(c), he withdraws his objections to the Secretary's Findings and asks that the matter be removed from the Court's calendar.

On February 23, 2010, Respondent filed a Stipulation to Dismissal to Complainant's Withdrawal of Objections to Findings (the "Response") stating that "Respondent stipulates to Complainant's voluntary withdrawal of his objections, with prejudice, each side to bear his or its own costs and fees."

I find that pursuant to 29 CFR Section 1979.111(c), Complainant can withdraw his objections to the Secretary's Findings because they were not final when the Withdrawal was filed.

For good cause shown:

**IT IS ORDERED** that Complainant's written request to withdraw his appeal of the Secretary's Findings is **GRANTED**.

**IT IS FURTHER ORDERED** that with this Order, the Secretary's Findings are **REINSTATED, AFFIRMED, and FINAL** and Complainant is deemed to have waived any further proceedings before the U.S. Department of Labor regarding the matters which are the subject of his AIR 21 complaint.

**IT IS FURTHER ORDERED** that Complainant's AIR 21 complaint which composes OALJ Case No. 2010-AIR-00006 is **DISMISSED** *with prejudice*.

**IT IS FURTHER ORDERED** that the March 15, 2010 hearing in this case in Denver, Colorado is **CANCELLED**.

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GERALD M. ETCHINGHAM  
Administrative Law Judge

*San Francisco, California*