



Issue Date: 21 October 2013

In the Matter of
STEPHANIE HEER,
Complainant

Case No.: 2012 AIR 18

v.

RYAN INTERNATIONAL AIRLINES,
Respondent

Appearances: Mr. John C. Ireland, Attorney
For the Complainant

Mr. Brian J. Kutz, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**FINAL ORDER APPROVING SETTLEMENT –
DISMISSAL OF COMPLAINT WITH PREJUDICE**

This case arises under the employee protection provisions of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 106-181, 49 U.S.C. § 42121 (“AIR 21” or “the Act”), as implemented by 29 C.F.R. Part 1979.

On October 11, 2011, Ms. Heer filed an AIR 21 complaint against Ryan International Airlines. After an investigation by the Occupational Safety and Health Administration, Ms. Heer's complaint was denied on July 18, 2012. In response, on August 2, 2012, Ms. Heer filed an objection to the dismissal and requested a hearing before the Office of Administrative Law Judges ("OALJ"). However, on September 10, 2012, I approved a stay due to bankruptcy proceedings, and on November 27, 2012 I further approved withdrawal of the timely appeal without prejudice with the right to re-submit the appeal upon expiration of the bankruptcy stay. On December 27, 2012, Ms. Heer re-filed her objection to the dismissal of her AIR 21 complaint. Pursuant to a Notice of Hearing, dated February 1, 2013, I set a hearing date of September 24, 2013 for his case in Rockford, Illinois. On June 24, 2013, I continued the proceedings and cancelled the scheduled hearing based on the parties' representation that they had settled their dispute. On October 18, 2013,¹ I received the parties' settlement agreement.

¹Although the settlement was mailed on October 7, 2013, I was unavailable until October 17, 2013, and OALJ mail processing was interrupted, due to the partial closure of the federal government from October 1 through October 16, 2013.

I first note that the parties were ably represented by counsel. Further, the Complainant represents her understanding of the agreement's provisions and the associated rights and obligations. Based on the issues presented in this case and the parties' respective positions, and upon review of the terms of the settlement, I find the provisions are fair, adequate and not contrary to public interest.² Accordingly, approval of the settlement agreement under 29 C.F.R. § 1979.111(d)(2) is appropriate. The parties shall implement their settlement as specifically stated in the agreement. And, under 29 C.F.R. § 1979.111(e), the approved settlement represents the final order of the Secretary, U.S. Department of Labor, regarding Ms. Heer's October 11, 2011 AIR 21 complaint.

The parties have agreed to keep the specific terms of the agreement confidential. To effectuate such confidentiality, I have sealed the settlement agreement. However, notwithstanding their agreement, the parties' submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (a). If a FOIA request is made for the settlement agreement,³ the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption.⁴

ORDER

The parties' settlement agreement regarding the October 11, 2011 AIR 21 complaint of Ms. Stephanie Heer against Ryan International Airlines is **Approved**. Accordingly, the October 11, 2011 AIR 21 complaint of Ms. Stephanie Heer is **Dismissed with Prejudice**.

SO ORDERED:

RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: October 21, 2013
Washington, D.C.

²See *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec'y Mar. 23, 1989); *Heffley v. NGK Metals Inc.*, 89-SDW-2 (Sec'y Mar. 6, 1990).

³On the outside of the sealed envelope containing the settlement agreement, I have included an order that the parties' attorneys be notified upon receipt of a FOIA request, and prior to disclosure. Upon such notification, counsel will have an opportunity to request an applicable disclosure exemption.

⁴See *Debose v. Carolina Power and Light Co.*, 92-ERA-14 (Sec'y Feb. 7, 1994); *Darr v. Precise Hard Chrome*, 95-CAA-6 (Sec'y May 9, 1995).