



Issue Date: 14 January 2015

Case No.: 2014-AIR-00019

In the Matter of

WILLIAM WASSERMAN
Complainant

v.

JET BLUE AIRWAYS
Respondent

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter involves a dispute concerning alleged violations by the Respondent, Jet Blue Airways, (“Jet Blue”) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (“AIR 21” or “the Act”), 49 U.S.C. § 42121 (2000). The Act includes a whistleblower protection provision, with a Department of Labor complaint procedure. Implementing regulations are located at 29 C.F.R. Part 1979, published at 67 Fed. Reg. 15453 (Apr. 1, 2002).

Procedural History

On December 12, 2012, Complainant filed an AIR 21 complaint against the Respondent. On June 11, 2014 the Secretary of the Department of Labor entered findings in this matter through correspondence from the Occupational Safety and Health Administration (“OSHA”). On June 30, 2014, Complainant formally objected to OSHA’s findings and requested a hearing.

Subsequently, this case was transferred to me and I issued a Notice of Assignment and Conference Call on July 18, 2014. The conference call proceeded as scheduled and I issued a Notice of Hearing and Pre-Hearing Order on August 1, 2014. Therein I set the hearing date for the week of January 12, 2015, and the hearing location as Philadelphia, PA.¹

By letter dated January 6, 2015 and received by facsimile on the same date, Complainant’s counsel stated that Complainant “requests that his AIR 21 Complaint and Objections to the Secretary’s findings be [w]ithdrawn and the February 9, 2015 hearing in Cherry Hill, New Jersey be discontinued.” Complainant requested that this withdrawal occur

¹ By Notice, dated December 9, 2014, I changed the hearing date to the week of February 9, 2015 with location, Cherry Hill, NJ.

“without prejudice to any action [Complainant] may take regarding [Complainant’s] American Arbitration Association matter with [Respondent].”

As confirmed via facsimile of June 12, 2015, Respondent’s counsel does not object to the Complainant’s withdrawal without prejudice.²

Discussion

The Secretary’s regulations provide at 29 C.F.R. § 1979.111(c), that (1) a party may withdraw its objections to the Secretary’s findings at any time before that decision becomes final by filing a written withdrawal with the administrative law judge (“ALJ”); and (2) the ALJ will determine whether to approve the withdrawal of the objections to the Secretary’s findings.

I note that I have the authority to approve Complainant’s withdrawal of objections to the Secretary’s findings. 29 C.F.R. § 1979.111(c). If I approve a request to withdraw objections, and there are no other pending objections, then the Secretary’s findings outlined in the letter from OSHA to Complainant dated June 11, 2014, dismissing the case, are affirmed and will become the final order of the Secretary. *Id.*

Upon review of the Complainant’s uncontested Motion to Withdraw and the record that is before me, I find that good cause is shown and approve Complainant’s withdrawal of his Complaint and Objections, without prejudice.

The hearing scheduled for the week of February 9, 2015 is hereby cancelled.

SO ORDERED.

SCOTT R. MORRIS
Administrative Law Judge

Cherry Hill, New Jersey

² I reasonably infer this, as Respondent’s counsel’s January 12, 2015 communication stated only: “Respondent . . . has no objection to Complainant’s Motion to Withdraw AIR21 Complaint and Objections to Findings.”