



Issue Date: 21 August 2015

Case No.: 2013-ERA-00001

OSHA No.: 4-0350-12-028

In the Matter of:

JONI JOHNSON,
Complainant,

v.

TENNESSEE VALLEY AUTHORITY,
Respondent,

ORDER APPROVING SETTLEMENT AGREEMENT AND RELEASE,
ORDER DISMISSING COMPLAINT WITH PREJUDICE
AND
ORDER OF SETTLEMENT CONFIDENTIALITY

This matter arises under the Employee “whistle blower” protection provisions of the Energy Reorganization Act of 1974, U.S. Code, Title 42, § 5851 (ERA) and its implementing regulations at 29 C.F.R., Part 24.¹ Per 29 CFR §24.107(a), all proceedings must be held in a manner consistent with the procedural rules and evidentiary rules set forth in federal regulations at 29 CFR Part 18.

On August 19, 2015, the Parties filed a “Joint Motion for Approval of Settlement, Dismissal with Prejudice, and Confidential Treatment of Settlement Agreement.” The supporting document to the Motion was the “Mutual Settlement Agreement and Release of Claims” signed by the Complainant and Respondent’s agent, deputy general counsel.

Implementing Federal regulations at 29 CFR §24.111(d)(2) provides that “At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ, if the case is before the judge, or by the ARB if the ARB has accepted the case for review. A copy of the settlement agreement must be filed with the administrative law judge or the ARB, as the case may be.” In reviewing the Settlement Agreement, the Administrative Law Judge must determine

¹ Federal Register, Volume 76, pages 2808 to 2826 (January 18, 2011)

whether the terms of the agreement fairly, adequately and reasonably settle the Complainant's allegations that the Respondent violated the ERA and are not against public policy. *See* Comments to Final Rule 29 CFR Part 24, 76 Fed. Reg. 2808, 2817-1818 (Jan. 18, 2011); Bunn v. Foley, No. 89-ERA-5, 1989 WL 549902 (Secy, Sep. 29, 1989); Fuchko and Yunker v. Georgia Power Co., Nos. 89-ERA-9, 89-ERA-10 at *2 (Secy, Mar. 23, 1989). Once the settlement agreement is approved, it becomes the final action of the Secretary and may be enforced in United States District Court pursuant to 29 CFR §24.111(e).

After review of the Settlement Agreement and the administrative record, this Administrative Law Judge finds that the Settlement Agreement complies with the standards required under the ERA and is approved.

ORDER

Accordingly, it is hereby **ORDERED** that:

1. The Settlement Agreement is **APPROVED**; and,
2. The Complaint is hereby **DISMISSED WITH PREJUDICE**.
3. The Settlement Agreement is **CONFIDENTIAL**, and per the request of the Parties in the Settlement Agreement, it is to be handled in a manner consistent with the restricted access provisions of 29 CFR §18.85 (b), Privileged, Sensitive, or Classified Material, pre-disclosure notice requirements of 29 CFR §70.26, and paragraph 25 of the Mutual Settlement Agreement and Release of Claims. It is designated "Personal Private Information" and "Confidential Commercial and Financial Information."

DANA ROSEN
Administrative Law Judge

DR/ard
Newport News, VA