

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 21 September 2009

CASE NO.: 2009-STA-00059

In the Matter of:

MICHELLE GIST,
Complainant,

v.

**CALEX EXPRESS, INC. and
BLUE HEN LINES,**
Respondent.

Appearances: Paul O. Taylor, Esquire
For the Complainant

Jarrett J. Ferentino, Esquire
For the Respondent

Before: Janice K. Bullard
Administrative Law Judge

RECOMMENDED ORDER
APPROVING WITHDRAWAL OF OBJECTIONS
AND DISMISSING CLAIM

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31150 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2004). The Complainant has submitted a motion to withdraw her complaint.

Pursuant to 29 C.F.R. § 1978.111(c), a complainant may file a written withdrawal of objections to the Secretary's preliminary findings with an Administrative Law Judge at any time before the findings or order becomes final. Thus, where a complainant seeks to withdraw his or her complaint, the Complainant's request is construed as a withdrawal of objections to the Secretary preliminary findings. *Mysinger v. Rent-A-Driver*, 1990-STA-23 (Secy's Sept. 21, 1990).

Accordingly, it is hereby **ORDERED** that the hearing is **CANCELED**, the Secretary's findings are **REINSTATED**, and the above-captioned matter is hereby **DISMISSED**, pursuant to 29 C.F.R. § 1978.111(c).

So ORDERED.

A

Janice K. Bullard
Administrative Law Judge

NOTICE OF REVIEW: The administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. See 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, 4.c (35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, the parties may file briefs with the Administrative Review Board ("Board") in support of, or in opposition to, the administrative law judge's order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.