

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 21 October 2009

CASE NO.: 2009-STA-00057

In the Matter of:

JASON MYRICK,
Complainant,

vs.

BOISE PACKAGING & NEWSPRINT,
BOISE, INC.,
BOISE CASCADE, LLC,
Respondents.

Appearances: Erika Birch, Esquire,
For the Complainant

Robert R. Ball, Esquire,
For the Respondent

Before: Jennifer Gee
Administrative Law Judge

RECOMMENDED DECISION AND ORDER DISMISSING CASE

This matter is before me on a request by Jason Myrick, the Complainant, for a hearing before the Office of Administrative Law Judges ("OALJ") under the employee protection provision of the Surface Transportation Assistance Act of 1982 ("Act" or "STAA"), 49 U.S.C. § 31105. The Complainant objected to findings issued by the Regional Administrator of the Department of Labor's Occupational Safety and Health Administration ("OSHA"), which found that the Complainant's protected activity was not a contributing factor to Respondent's decision to discharge him and that there was no evidence that he had been blacklisted for his protected activity.

This case was scheduled for a hearing before me on November 4, 2009, in Boise, Idaho. On October 7, 2009, the Complainant's counsel wrote and informed me that the parties had reached an agreement resolving the Complainant's complaint and asked that the case be dismissed with prejudice.

Pursuant to § 31105(b)(2)(C) of the STAA, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. § 1978.111(d)(2). Under the STAA a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec'y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.*

On October 13, 2009, I issued an order vacating the scheduled hearing and ordered the parties to submit the settlement agreement to me for review and approval. On October 21, 2009, Respondent’s counsel submitted the settlement agreement to me for review. I have reviewed the settlement agreement and find it to be fair, reasonable, and adequate and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest.

Accordingly, it is recommended that the Administrative Review Board approve the settlement agreement and dismiss this case with prejudice.

A

JENNIFER GEE
Administrative Law Judge

NOTICE OF REVIEW: The administrative law judge’s Recommended Order Approving Settlement, 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 Settlement, 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.