



In the Matter of:

WILLIAM FARRAR,

ARB CASE NO. 03-031

COMPLAINANT,

ALJ CASE NO. 2001-STA-58

v.

DATE: March 30, 2004

ROADWAY EXPRESS, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

William Farrar, *pro se*, Hahira, Georgia

For the Respondent:

Dara L. DeHaven, Esq., *Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Atlanta, Georgia*

FINAL DECISION AND ORDER

On November 7, 2000, William Farrar filed a complaint alleging that Roadway Express, Inc. retaliated against him in violation of the employee protection provision of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C.A. § 31105 (West 1997). He requested a hearing before an Administrative Law Judge (ALJ). The ALJ scheduled a hearing for April 25, 2002. Farrar's counsel attended the hearing, but Farrar did not.

Consequently, the ALJ issued an Order requiring Farrar to show cause why his complaint should not be dismissed due to his failure to appear at the formal hearing to prosecute the case. Farrar filed a response to the order, and Roadway filed a reply to Farrar's response. On December 13, 2002, the ALJ issued a Recommended Decision and Order (R. D. & O.) recommending dismissal of the complaint for Farrar's failure to attend the hearing, finding that "the Complainant has offered no reasonable excuse, and certainly not good cause, for his failure to appear for the hearing." R. D. & O. at 3.

The regulations governing whistleblower proceedings state that “[t]he administrative law judge may, at the request of any party, or on his or her own motion, issue a recommended decision and order dismissing a claim . . . [u]pon the failure of the complainant or his or her representative to attend a hearing without good cause” 29 C.F.R. § 24.6(e)(4)(i)(A) (2003). We agree with the ALJ’s conclusion that Farrar has not established good cause for his failure to attend his hearing. Farrar’s brief before the Board simply reiterates the argument presented in his response to the ALJ’s Order to Show Cause. Complainant’s Brief at 9-11. *See* R. D. & O. at 2. Accordingly, we **AFFIRM** and **ADOPT** the ALJ’s R. D. & O., as attached, and **DISMISS** the complaint.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge