In the Matter of:

WILLIAM J. BETTNER, COMPLAINANT,

v.

DAYMARK FOODS, INC., RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER APPROVING SETTLEMENT AND DISMISSING COMPLAINT


BACKGROUND

In January 1997, Bettner filed a complaint with Department of Labor alleging that his employer, Daymark, had discharged him from his position as a truck driver because he refused to drive excess hours in violation of Department of Transportation regulations. After a hearing, the Administrative Law Judge (ALJ) issued a Recommended Decision and Order (RD) in which he found that Daymark violated the STAA and ordered reinstatement and back pay. In a supplemental recommended decision (Supp. RD), the ALJ ordered Daymark to pay attorney fees and costs. The ALJ forwarded the case to this Board for a final decision.

While the ALJ’s Recommended Decision and Supplement Decision were pending before this Board, the parties independently agreed to settle the case and have submitted to us a Stipulated Motion to Approve Settlement detailing the terms of the settlement agreement (Agreement).

DISCUSSION

Under rules implementing the STAA, a case may be settled 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 U.S.C.
Pursuant to 29 C.F.R. §70.26(b), submitters may designate specific information as confidential commercial information. When FOIA requests are received for such information, the Department of Labor shall notify the submitter promptly, the submitter will be given a reasonable period of time to state its objections to disclosure, and the submitter will be notified if a decision is made to disclose the information. 29 C.F.R. §70.26(e), (f). If the information is withheld and the requester files suit to compel disclosure, the submitter will be notified. 29 C.F.R. §70.26(h).

In any event, this Order supersedes the RD and Supp. RD.
We find that the Agreement as construed is a fair, adequate, and reasonable settlement of the allegation that Daymark violated the STAA. We APPROVE the settlement agreement and DISMISS the complaint.

SO ORDERED.

KARL J. SANDSTROM
Chair

PAUL GREENBERG
Member

CYNTHIA L. ATTWOOD
Acting Member