



**Issue Date: 14 May 2015**

**CASE NO.: 2011-AIR-00006**

**IN THE MATTER OF**

**REBECCA GUMBS**  
**Complainant**

**v.**

**AMERICAN AIRLINES, INC.**  
**Respondent**

**ORDER OF DISMISSAL**

**A. Background**

On March 7, 2011, Rebecca Gumbs, now Rebecca Elliott, (Complainant) filed a complaint with the Secretary of Labor alleging that American Airlines, Inc. (Respondent) retaliated against her in violation of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR 21), 49 U.S.C. § 42121.

On March 21, 2011, the Secretary, acting through the Occupational Safety and Health Administration (OSHA), dismissed Claimant's whistleblower complaint. On April 19, 2011, Complainant requested a hearing before the Office of Administrative Law Judges.

On December 6, 2011, Respondent filed a Notice of Suggestion of Bankruptcy advising that Respondent filed a voluntary petition for Chapter 11 bankruptcy on November 29, 2011 in the United States Bankruptcy Court for the Southern District of New York. On December 7, 2011, an Order to Show Cause was issued by the Court where Complainant was ordered to show cause why this matter should not be stayed. On December 22, 2011, Complainant submitted a Notice of Transfer of Claim Other Than for Security. On July 10, 2013, this matter was officially stayed due to the Chapter 11 bankruptcy filing by Respondent.

There was no other activity matter until April 6, 2015, when the Court contacted Complainant about her wish to continue pursuing in this matter. Over the next month, Complainant, proceeding *pro se*, updated the Court on her employment status (she is back working for Respondent due to its recent merger with US Airways) and her discussions with Respondent's human resources department to work out a resolution on additional matters, including seniority.

On May 11, 2015, Complainant indicated to the Court by telephone that continuing with the 2011 claim would not be in her best interests. Also on May 11, 2015, Complainant informed the Court in writing that she wished to withdraw her claim.

## **B. Law and Discussion**

The rules of administrative practice provide that proceedings before an administrative law judge (ALJ) shall be conducted expeditiously and the parties shall make every effort at each stage of a proceeding to avoid delay. 29 C.F.R. § 18.1(a).

In an AIR 21 proceeding, a party may withdraw its objections to the Secretary's findings at any time before that decision becomes final by filing a written withdrawal with the ALJ. 29 C.F.R. § 1979.111(c). The ALJ will determine whether to approve the withdrawal of the objections to the Secretary's findings. *Id.*

If I approve a request to withdraw objections, and there are no other pending objections, then the Secretary's findings outlined in the letter from OSHA to Complainant dated March 21, 2011, dismissing the case, are affirmed and will become the final order of the Secretary.

Based on Complainant's written request to withdraw, her telephone conversation with the Court indicating that a withdrawal is in her best interests, and the record before me, I have determined that a withdrawal is warranted.

I find that good cause is shown, and I approve Complainant's withdrawal of her complaint and objections.

## **C. Order**

Based on the foregoing,

**IT IS HEREBY ORDERED** that the complaint and objections from Complainant, Rebecca Gumbs (Elliott), against American Airlines Inc., are **DISMISSED**.

**SO ORDERED** this 14<sup>th</sup> day of May, 2015 at Covington, Louisiana.

**CLEMENT J. KENNINGTON**  
**ADMINISTRATIVE LAW JUDGE**

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review (“Petition”) with the Administrative Review Board (“Board”) within ten (10) business days of the date of issuance of the administrative law judge’s decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: [Boards-EFSR-Help@dol.gov](mailto:Boards-EFSR-Help@dol.gov)

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1979.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. *See* 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. *See* 29 C.F.R. § 1979.110(a).

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review. If you e-File your petition and opening brief, only one copy need be uploaded.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and may include an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies. If you e-File your responsive brief, only one copy need be uploaded.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board. If you e-File your reply brief, only one copy need be uploaded.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).