



In the Matter of:

FLOYD LUCAS,

COMPLAINANT,

v.

M & C TRUCKING,

RESPONDENT.

ARB CASE NO. 04-031

ALJ CASE NO. 2002-STA-00036

DATE: March 24, 2005

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

**Eric T. Cronin, Esq., Law Offices of Owaian M. Jones, Fredericksburg,
Virginia**

For the Respondent:

Craig M. Palik, Esq., McNamee Hosea, Greenbelt, Maryland

FINAL DECISION AND ORDER

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C.A. § 31105 (West 1997). Floyd Lucas alleges that M & C Trucking violated the STAA by terminating his employment in retaliation for complaining about the safety of M & C's trailers. On December 2, 2003, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. & O.) in which she concluded that Lucas did not meet his burden of proving that the termination was retaliatory.

The Secretary of Labor has delegated her jurisdiction to decide this matter by authority of 49 U.S.C.A. § 31105(b)(2)(C) to the Administrative Review Board (ARB or Board). *See* Secretary’s Order 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002). *See also* 29 C.F.R. § 1978.109(c)(2004). When reviewing STAA cases the ARB is bound by the ALJ’s factual findings if substantial evidence on the record considered as a whole supports them. 29 C.F.R. § 1978.109(c)(3); *BSP Trans, Inc. v. United States Dep’t of Labor*, 160 F.3d 38, 46 (1st Cir. 1998); *Castle Coal & Oil Co., Inc. v. Reich*, 55 F.3d 41, 44 (2d Cir. 1995). Substantial evidence is that which is “more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clean Harbors Eenvtl. Servs., Inc. v. Herman*, 146 F.3d 12, 21 (1st Cir. 1998) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)). In reviewing the ALJ’s conclusions of law, the Board, as the Secretary’s designee, acts with “all the powers [the Secretary] would have in making the initial decision” 5 U.S.C.A. § 557(b) (West 1996). Therefore, the Board reviews the ALJ’s conclusions of law de novo. *See Roadway Express, Inc. v. Dole*, 929 F.2d 1060, 1066 (5th Cir. 1991).

We have reviewed the record and find that substantial evidence on the record as a whole supports the ALJ’s factual findings and that they are therefore conclusive. 29 C.F.R. § 1978.109(c)(3). The ALJ correctly applied the relevant law in a thorough, well-reasoned decision. Accordingly, we adopt the findings of fact and conclusions of law in the attached ALJ’s R. D. & O. and deny Lucas’ complaint.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge