



RICHARD SMITH, Jr.,

ARB CASE NO. 05-042

COMPLAINANT,

ALJ CASE NO. 04-STA-7

v.

DATE: August 25, 2006

JORDAN CARRIERS,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Richard Smith, Jr., *pro se*, Marshall, Texas

For the Respondent:

Bruce M. Kuehnle, Jr., *Law Office of Bruce M. Kuehnle, Jr., PLLC, Natchez, Mississippi*

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). Richard Smith, Jr. alleges that his former employer, Jordan Carriers, Inc., violated the STAA when it fired him after he complained about faulty brakes on the truck he was assigned to drive. A Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order dismissing Smith's claim because he concluded that Jordan did not fire Smith but that Smith chose to sever his employment for reasons other than the faulty brakes. The ALJ's decision is before the Administrative Review Board pursuant to 29 C.F.R. § 1978.109(c)(1)'s automatic review procedures. We affirm the ALJ's Recommended Decision and Order.

STANDARD OF REVIEW

We have jurisdiction to decide this matter by authority of 49 U.S.C.A. § 31105(b)(2)(C) (West 1997) and 29 C.F.R. § 1978.109(c)(2005). Under the STAA, the Administrative Review Board is bound by the ALJ's factual findings if substantial evidence on the record considered as a whole supports those findings. 29 C.F.R. § 1978.109(c)(3); *BSP Transp., 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 Env'tl. Servs. 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). *See also* 29 C.F.R. § 1978.109(b). Therefore, the Board reviews the ALJ's conclusions of law de novo. *Roadway Express, Inc. v. Dole*, 929 F.2d 1060, 1066 (5th Cir. 1991).

DECISION

The ALJ's decision thoroughly and fairly recites the relevant facts underlying this dispute. We have reviewed the record and find that substantial evidence on the record as a whole supports the ALJ's factual findings. Those findings are therefore conclusive. 29 C.F.R. § 1978.109(c)(3). The ALJ's decision is in accordance with law. Accordingly, we adopt and attach the ALJ's Recommended Decision and Order and **DENY** Smith's complaint.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge