



In the Matter of:

DONALD NISLEY,

ARB CASE NO. 04-145

COMPLAINANT,

ALJ CASE NO. 03-STA-00029

v.

DATE: September 29, 2004

J & B LEASING,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Respondent:

Harland M. Britz, Esq., Britz and Zimmelman, Toledo, Ohio

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2003). The Administrative Law Judge (ALJ) below issued a Recommended Decision and Order approving the parties' settlement agreement and dismissing the complaint with prejudice.

Pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board "shall issue the final decision and order based on the record and the decision and order of the administrative law judge." July 14, 2004, the Board issued a Notice of Review and Order to Show Cause permitting either party to show cause why the Board should not approve the ALJ's order. Neither party objected to the ALJ's order.

The ARB concurs with the ALJ's determination that the parties' settlement agreement is fair, adequate and reasonable. But, we note that the agreement encompasses the settlement of matters under laws other than the STAA. See ¶ 7 of the Settlement and Release Agreement. Because the Board's authority over settlement agreements is limited

to such statutes as are within the Board's jurisdiction and is defined by the applicable statute, we approve only the terms of the agreement pertaining to Donald Nisley's STAA claim. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003). Furthermore, our approval is limited to this case, and we understand the settlement terms relating to release of STAA claims as pertaining only to the facts and circumstances giving rise to this case.

The parties have agreed to settle Nisley's STAA claim. Accordingly, with the reservations noted above limiting our approval to the settlement of Nisley's July 11, 2002 STAA claim, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge