



In the Matter of:

KIM NICHOLS,

ARB CASE NO. 97-088

COMPLAINANT,

(ALJ CASE NO. 97-STA-2)

v.

DATE: July 17, 1997

GORDON TRUCKING, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER

The record in this case arising under the Surface Transportation Assistance Act of 1982, as amended, 49 U.S.C. § 31105 (West 1996) (STAA), has been fully reviewed and we find that substantial evidence supports the Administrative Law Judge's Recommended Decision and Order (R. D. & O.) that Respondent Gordon Trucking, Inc. did not discriminate against Complainant Kim Nichols for activities protected by the STAA when it fired him in April 1996. R. D. & O. at 7; 29 C.F.R. § 1978.109(c)(3) (1996). We note only the following points about the ALJ's decision.

The ALJ found that Nichols was not motivated by highway safety in objecting to Gordon Trucking's directions to haul trailers that were not pre-loaded. R. D. & O. at 7. A complainant's motivation in making safety complaints has no bearing on whether the complaints are protected. *Pooler v. Snohomish County Airport*, Case No. 87-TSC-1, Sec'y. Dec. Feb. 14, 1994, slip op. at 5. In addition, in affirming the ALJ's decision as supported by substantial evidence, we do not rely on

the findings of the Oregon Employment Appeals Board. In cases arising under the STAA, deference should be paid to the findings of another government agency made in proceedings brought under different statutes only in limited circumstances. 29 C.F.R. § 1978.112.

Accordingly, the complaint in this case is **DENIED**.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member