



In the Matter of:

LARRY FERGUSON,

ARB CASE NO. 06-093

COMPLAINANT,

ALJ CASE NO. 2006-STA-00011

v.

DATE: August 25, 2006

SCHLUMBERGER TECHNICAL
CORPORATION,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

David E. Wood, Esq., McAllen, Texas

For the Respondent:

Amy Karff Halevy, Esq., Bracewell & Giuliani LLP, Houston, Texas

FINAL DECISION AND DISMISSAL ORDER

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA).¹ On June 23, 2006, a Department of Labor Administrative Law Judge issued a Recommended Order Approving Withdrawal of Objections and Dismissing Claim (R. O.). The ALJ stated in the R. O.:

This case was brought under the Surface Transportation Assistance Act, 49 U.S.C. § 31105. The matter is set for formal hearing on June 29, 2006, but Complainant, through Counsel, has now advised he does not wish to pursue his complaint in this forum. Consequently, it is hereby **ORDERED** that Complainant's appeal of OSHA's

¹ 49 U.S.C.A. § 31105 (West 1997).

determination of December 23, 2005, is **DISMISSED** and the hearing scheduled for June 29, 2006 is **CANCELLED**.²

The ALJ's R. O. and record were forwarded to the Administrative Review Board for automatic review and to issue a final decision.³ The Board issued a Notice of Review and Briefing Schedule, directing the parties to file briefs in support of or in opposition to the R. O., within thirty days from the date on which the ALJ issued the R. O.⁴ Both parties filed statements with the Board indicating that they did not intend to file briefs.

The Board is required to issue a final decision and order based on the record and the decision and order of the ALJ.⁵ Accordingly, we **APPROVE** Ferguson's withdrawal of his objections to OSHA's findings and **DISMISS** this appeal.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge

² R. O. at 1. Under the STAA's implementing regulations a party may withdraw his objections to OSHA findings "[a]t any time before the findings or order become final . . . by filing a written withdrawal with the administrative law judge." 29 C.F.R. § 1978.111(c) (2005).

³ 29 C.F.R. § 1978.109(a).

⁴ *See* 29 C.F.R. § 1978.109(c)(2).

⁵ 29 C.F.R. § 1978.109(c)(1).