



In The Matter Of:

CASE NO. 94-STA-1

LESZEK VOGT,

DATE: June 24, 1996

COMPLAINANT,

v.

ATLAS TOURS, LTD.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

FINAL DECISION AND ORDER

This case arises under the employee protection provision of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C. § 31105 (West 1995). Complainant, Leszek Vogt, alleges that Respondent, Atlas Tours, Ltd., violated the STAA when it discharged him for refusing an assignment as a tour bus driver. In a decision issued on July 19, 1994, the Secretary of Labor remanded this case to the Administrative Law Judge (ALJ) for a hearing on the complaint.

On remand, the ALJ found that the discharge did not violate the STAA because Atlas' operations manager did not know, and could not reasonably have known, when he fired Vogt that Vogt's refusal of the dispatch was protected activity. Rec. Dec. on Remand at 5. The ALJ's findings of fact are supported by substantial evidence on the record as a whole and therefore are conclusive. 29 C.F.R. § 1978.109(c)(3)(1995). The ALJ's decision is also well reasoned and

^{1/} On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996) (copy appended).

Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. A copy of the final procedural revisions to the regulations (61 Fed. Reg. 19982), implementing this reorganization is also attached. The entire record in this case, including the Secretary's earlier decision, was reviewed by the Board.

correct on the law. Therefore, we adopt the attached Recommended Decision and Order on Remand, and this complaint is DISMISSED.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member