



In the Matter of:

DALE PARKES,

ARB CASE NO. 04-110

COMPLAINANT,

ALJ CASE NO. 2003-STA-42

v.

DATE: August 30, 2005

TRANSPORTATION CORP. OF AMERICA,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended.¹ On May 27, 2004, Dale Parkes, the complainant, and Transportation Corporation of America, the respondent, submitted a Stipulated Motion to Approve Settlement and Dismiss Proceeding with Prejudice to a Department of Labor Administrative Law Judge (ALJ). Under the regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's preliminary findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ."² The regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be."³

¹ 49 U.S.C.A. § 31105 (West 1997).

² 29 C.F.R. § 1978.111(d)(2) (2004).

³ *Id.*

In this case, when the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On June 3, 2004, the ALJ issued a Final Order Approving Settlement and Dismissing Complaint. Nevertheless, according to the STAA's implementing regulations, the Administrative Review Board issues the final decision and order in this case.⁴

The Board issued a Notice of Review and Briefing apprising the parties of their right to submit briefs supporting or opposing the ALJ's decision.⁵ Neither party filed a response to the Board's notice.

The parties have certified that the agreement constitutes the entire settlement with respect to Parkes's claims.⁶ Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA.⁷ The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to Parkes's STAA claim.⁸

Accordingly, as described above, we **APPROVE** the agreement's provisions pertaining to Parkes's STAA claim and **DISMISS** the complaint with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge

⁴ 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

⁵ 29 C.F.R. § 1978.109(c)(2).

⁶ Settlement Agreement ¶ 10.

⁷ Settlement Agreement ¶ 3.

⁸ *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).