



In the Matter of:

CRAIG R. THIBAUT,

ARB CASE NO. 04-042

COMPLAINANT,

ALJ CASE NO. 2004-STA-00008

v.

DATE: November 30, 2004

THE TOP SHOP,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

BACKGROUND

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act (STAA) of 1982, 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2004). Complainant Craig Thibault filed a complaint with OSHA alleging that The Top Shop terminated his employment in violation of the STAA. The parties agreed to settle the case. The Administrative Law Judge (ALJ) issued a Decision and Order Approving Settlement Agreement (D. & O.) and dismissed the complaint with prejudice. We **AFFIRM**.

DISCUSSION

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.” January 22, 2004, the Board issued a Notice of Review and Briefing Schedule permitting either party to file briefs in support of or in opposition to the ALJ’s Order. Neither party objected to the ALJ’s order.

Pursuant to STAA § 31105(b) (2)(C), “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under 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." 29 C.F.R. § 1978.111(d)(2). However, pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board must, nevertheless, issue a final decision and order. *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50, slip op. at 2 (ARB Sept. 26, 2001).

The regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board . . . as the case may be." *Id.*

In this case, at the time the parties reached a settlement, the case was pending before the ALJ, who held a hearing on January 5, 2004. During the hearing, the ALJ appropriately reviewed the settlement agreement.

The Board notes that the provisions of the settlement agreement were discussed at the January 5, 2004 hearing. The transcript of that hearing makes clear that the parties agreed:

By the end of the day on Friday, January 9, 2004, the Respondent Top Shop shall pay to the Complainant Craig R. Thibault the sum of \$5,000.00 in full settlement of all claims against The Top Shop, and both parties will exchange general releases of any and all claims arising out of the Complainant's employment at The Top Shop.

See Transcript (T.) p. 5 (Settlement Agreement, para. 1.)

The agreement appears to encompass matters under laws other than the STAA. *See* T. pp. 6-7. 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. Therefore, we approve only the terms of the agreement pertaining to the Complainant's STAA claim. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56 (ARB Apr. 30, 2003).

CONCLUSION

The parties have agreed to settle the Complainant's STAA claim. Accordingly, we **APPROVE** the agreement and **DISMISS** the complaint.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge