

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 06 December 2007

CASE NO.: 2007-STa-44

In the Matter of:

JANE CUTHRELL,
Complainant

v.

WILLIS SHAW EXPRESS,
Respondent

ORDER GRANTING WITHDRAWAL OF COMPLAINT

A hearing was scheduled in the above-styled matter for November 14, 2007, in Pontiac, Michigan, pursuant to a Notice of Hearing I issued on September 5, 2007. On November 23, 2007, the Complainant submitted an unopposed Motion to Withdraw Complaint. She had previously indicated that she had consulted counsel and was given until November 26, 2007, to consult the Center for Truckers' Justice lawyers.

Withdrawal of objections to the Assistant Secretary's findings or order are permitted, under 29 C.F.R. section 1978.111. When permitted, the judge or Board "shall affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn." *Id.* The regulation distinguishes this procedure from requests for withdrawal made at an earlier point in the proceeding. However, the regulation does not appear to explicitly preclude judges granting overall withdrawal of the complaint, as subsection 1978.111(c) permits withdrawal of objections. Withdrawal of objections as opposed to withdrawal of the complaint, requires affirmance of the now uncontested findings.

Based on the foregoing, I affirm the Secretary's July 13, 2007, Findings, reflecting dismissal of the complaint.

ORDER

WHEREFORE, IT IS ORDERED THAT:

1. The scheduled hearing is cancelled;
2. The Complainant's Motion to Withdraw Complaint is granted; and,

3. The Secretary's July 13, 2007 Findings are affirmed.

A

RICHARD A. MORGAN
Administrative Law Judge