

U.S. Department of Labor

Office of Administrative Law Judges
St. Tammany Courthouse Annex
428 E. Boston Street, 1st Floor
Covington, LA 70433-2846

(985) 809-5173
(985) 893-7351 (Fax)



Issue Date: 21 February 2006

CASE NO.: 2006-STA-8

IN THE MATTER OF

RICKY D. FORREST

Complainant

v.

EQUITY TRANSPORTATION

Respondent

**ORDER CANCELLING HEARING AND
REMANDING CASE TO THE DIRECTOR**

On June 19, 2005, Complainant Ricky Forrest timely filed a complaint of discrimination against Equity Transportation Co., Inc. and "co-employer" Central Leasing Management Incorporated, 430 North Wayne Street, Angola, IN 46709," under the provisions of Title 49 U.S.C. § 31105, The Surface Transportation Assistance Act (STAA).

On December 2, 2005, the Area Director, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) found no reasonable cause to believe that Equity Transportation Co., Inc. violated Complainant's rights under the STAA and dismissed the complaint without merit. The complaint was appealed and assigned to the undersigned for determination.

Inexplicably, on December 9, 2005, the Office of Inspector General, U.S. Department of Transportation (DOT) advised Complainant that it had completed an inquiry and his allegations had been substantiated. He was advised that "enforcement actions were taken which included issuing a fine to the company."

On January 6, 2006, Complainant filed a Motion to Remand to the Director for further investigation. The Secretary's findings do not mention or discuss the relationship, if any, of alleged co-employer Central Leasing or its role, if any, in the alleged discriminatory acts.

Following the issuance of my Notice of Hearing and Pre-Hearing Order on January 12, 2006, a telephonic conference was held with the parties on February 16, 2006. It is apparent that Central Leasing was not considered, nor investigated, as a co-Respondent and that a remand is warranted in this matter to the Area Director for resolution of the status and role of Central Leasing and the attendant jurisdictional issue it presents, as well as a clarification of the inconsistencies that are apparent in OSHA's conclusion and the finding of the Office of Inspector General of DOT.

Accordingly,

IT IS HEREBY ORDERED that:

1) The hearing in the present matter scheduled for March 16, 2006, in Houston, Texas be postponed indefinitely; and

2) This matter be remanded to the Area Director of the U.S. Department of Labor (OSHA) in Lansing, Michigan for (a) further investigation and a determination on the standing and role of Central Leasing Management Incorporated as a co-employer and co-respondent in the present matter under the STAA, including the potential liability of Central Leasing, singularly, as jointly with Equity Transportation under the STAA if any finding of a violation of the STAA is established; and (b) clarification of the inconsistencies between conclusions reached by OSHA and the Office of Inspector General (DOT). In this regard, the application of the principles of a employer-employer relationship is warranted as discussed in Lewis v. Synagro Techs., Inc., ARB No. 02-072, ALJ Nos. 02-CAA-12 and 14, Slip op. at 8 n.14 (ARB Feb. 27, 2004).

ORDERED this 21st day of February, 2006, at Covington, Louisiana.

A

LEE J. ROMERO, JR.
Administrative Law Judge

