



In the Matter of:

KRISTEN LANGSTON,

ARB CASE NO. 05-114

COMPLAINANT,

ALJ CASE NOS. 2003-STA-3

v.

2003-STA-4

**POWELL-CHRISTIANSEN, INC.
d/b/a GENERAL TRANSPORT,**

DATE: September 27, 2005

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

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

Kristen Langston filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging that he had been fired in violation of the employee protection provision of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105 (West 1994). After an investigation, OSHA concluded that the complaint had merit and issued a preliminary order directing the Respondent to afford Langston relief. The Respondent invoked its right to an administrative law hearing on the merits of the complaint, and the case was assigned to a Labor Department Administrative Law Judge (ALJ) for adjudication.

In December 2002, the Complainant filed a motion asking that further administrative law proceedings be stayed until completion of a related civil proceeding in the Superior Court of Pierce County, Washington. The Respondent had no objection. Accordingly, on January 2, 2003, the ALJ issued an order staying all further administrative law proceedings until completion of the civil action in the Superior Court of Pierce County.

In April 2005, the ALJ received notice that in June 2003, the parties had settled their dispute in the state court proceeding and that as part of the settlement the Complainant released the Respondent from all claims of any kind stemming from his employment by the respondent. In June 2005, the ALJ issued an Order to Show Cause

why the Complainant's STAA complaint should not be dismissed with prejudice on the ground that the Complainant had abandoned it. Neither the Complainant nor the Respondent responded to the ALJ's order. Accordingly, on June 22, 2005, the ALJ issued a Recommended Order Dismissing Complaint with Prejudice.

Pursuant to 29 C.F.R. § 1978.109(a) and (c)(1) (2004), the Recommended Decision and Order came before the Board for automatic review. On June 28, 2005, the Board issued a Notice of Review and Briefing Schedule. Counsel for both parties advised the Board that they did not intend to file briefs in support of or in opposition to the ALJ's Recommended Order.

Accordingly, we **AFFIRM** the Recommended Decision and Order and **DISMISS** the complaint with prejudice.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge