



Issue Date: 21 February 2008

Case No.: 2007-STA-00030

In the Matter of

JAYSON L. RULO,
Complainant

v.

K & B TRANSPORTATION, INC.,
WESTERN LIVESTOCK EXPRESS, INC.,
Respondents

**RECOMMENDED ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This proceeding arises under the employee protection provisions of the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (hereinafter the “Act”), and the implementing regulations set forth at 29 C.F.R. Part 1978.

Respondent’s counsel, Jeffrey T. Myers, submitted on November 2, 2007, Respondent’s Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice. Attached to that document is a Settlement Agreement and General Release, which sets forth the agreement of the parties. The agreement is signed by the complainant, Jayson Rulo, and a representative of the respondent.

Since the settlement agreement appeared to be a facsimile copy and included Western Livestock Express, Inc. also as a respondent in this case, I issued orders on November 9, 2007 and December 20, 2007 attempting to obtain an explanation for including Western Livestock Express, Inc. in the caption in this case and the original settlement agreement, in lieu of the copy signed by the parties. Complainant, through counsel, Paul O. Taylor, responded to the most recent order on January 12, 2008. He explains that Western Livestock Express, Inc. appears in the settlement agreement because the complaint was filed by Mr. Rulo with the Occupational Safety and Health Administration containing both K & B Transportation, Inc. and Western Livestock Express, Inc. as respondents. He states that the agreement previously submitted by the parties contained the original signatures of the complainant and respondent’s representative. He explains that the facsimile markings on the original agreement are there because he faxed the original agreement to Mr. Rulo, who then signed the document and sent it to respondent’s counsel for execution. Mr. Taylor essentially explains that it is very difficult to contact his client because Mr. Rulo has recently relocated from Iowa to Maine and is working for another trucking

company. He therefore requests that I approve the settlement agreement because it contains the original signatures of the parties.

Pursuant to the explanation of complainant's counsel, IT IS HEREBY ORDERED that the caption in this case is corrected to include Western Livestock Express, Inc. as a respondent in this matter. Also based on the explanation of complainant's counsel, I accept the settlement agreement of the parties as the original agreement in this case, although the original signatures were placed on a copy of the agreement.

The Act and implementing regulations provide that a proceeding under the Act may be ended prior to entry of a final order by a settlement agreement between the parties. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). The Administrative Law Judge's role in reviewing the parties' settlement agreement is limited to ascertaining whether the terms of the agreement fairly, adequately and reasonably settle the complainant's allegations that the respondent violated the Act. *Ass't Sec'y & Zurenda v. Corporate Express Delivery Systems, Inc.*, ARB No. 00-041, OALJ No. 1999-STA-30 (ARB Mar. 31, 2000) (*Zurenda*); *Champlin v. Florilli Corp.*, OALJ No. 1991-STA-7 (Sec'y May 20, 1992).

I have carefully reviewed the terms of the executed settlement agreement, and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint. Pursuant to 29 C.F.R. § 1978.109(c), however, the Administrative Review Board must issue the final order of dismissal of a complaint under the Act which is resolved by settlement. *See Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ No. 2000-STA-32 (ARB Sept. 26, 2002). Accordingly, IT IS HEREBY RECOMMENDED that the Administrative Review Board approve the settlement agreement, which is incorporated by reference and dismiss the appeal of Jayson Rulo with prejudice.

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DONALD W. MOSSER
Administrative Law Judge

NOTICE OF REVIEW: The administrative law judge's Recommended Order Approving Settlement, along with the administrative file, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, NW, Suite S-5220, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, para. 4.c(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Approving Settlement, the parties may file briefs with the Administrative Review Board (Board) in support of, or in opposition to, the administrative law judge's order, unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.