



In the Matter of:

PHIL P. TUGGLE,

ARB CASE NO. 05-017

COMPLAINANT,

ALJ CASE NO. 2003-STA-008

v.

DATE: November 30, 2005

ROADWAY EXPRESS, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2004). On July 3, 2001, Roadway Express, Incorporated, (Roadway) terminated the employment of the complainant, Phil P. Tuggle. Tuggle filed a grievance against Roadway pursuant to a collective bargaining agreement. While his grievance was still pending, Tuggle also filed a complaint alleging that the Roadway violated the STAA.

On September 21, 2001, Tuggle and Roadway settled his grievance. Thereafter, when the Department of Labor initially denied Tuggle's STAA complaint, he requested a hearing pursuant to 29 C.F.R. § 1978.105. Subsequently, because the facts at issue in the grievance and STAA proceedings were the same, the Administrative Law Judge (ALJ) deferred to the outcome of the grievance arbitration proceedings and, therefore, granted Roadway's Motion for Approval of Adjudicatory Settlement and to Dismiss Complaint pursuant to 29 C.F.R. § 1978.112 (c), in a recommended order dated March 7, 2003. But because the settlement agreement of Tuggle's grievance is not determinative of Tuggle's STAA complaint under 29 C.F.R. § 1978.112(c), we reversed the ALJ's decision to dismiss Tuggle's STAA complaint and remanded this case for a hearing on its merits. *Tuggle v. Roadway Express, Inc.*, ARB No. 03-081, ALJ No. 03-STA-008 (May 28, 2004).

On remand, the parties agreed to also settle Tuggle's STAA complaint. On November 8, 2004, the ALJ issued a Recommended Order Approving Settlement, approving the parties' settlement agreement and dismissing the complaint with prejudice.

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." 29 C.F.R. § 1978.109(c); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001). On November 10, 2004, the Board issued a Notice of Review and Briefing Schedule permitting either party to submit briefs in support of or in opposition to the ALJ's order. None of the parties filed a response with the Board.

The ARB agrees with the ALJ's determination that the parties' settlement agreement is a fair, adequate and reasonable settlement of the complaint. We note that the agreement releases Roadway "from any and all liabilities, claims, damages, disputes, and causes of action arising out of or related to" Tuggle's termination, "as well as for any other matter which was the subject of the Complaint." Para. 1. of the Settlement Agreement. The agreement also states that it represents a settlement of the dispute "arising in this matter" and that each party agrees "that there are no admissions of liability." Para. 2. of the Settlement Agreement. Finally, the agreement states that Tuggle executed it "to resolve all claims which he has against Roadway, whether expressly set forth herein or otherwise, and to release Roadway from any such claims and/or liability associated therewith." Para. 4 of the Settlement Agreement. Because 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, we approve only the terms of the agreement pertaining to Tuggle's STAA claim. *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003). The parties have certified that the agreement constitutes the entire settlement with respect to Tuggle's STAA claim.

Accordingly, with the reservations noted above limiting our approval to the settlement of Tuggle's STAA claim, we **APPROVE** the ALJ's order and **DISMISS** the complaint with prejudice.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge