



In the Matter of:

**JOSEPH A. CAIMANO,**

**CASE NO. 95-STA-4**

**COMPLAINANT,**

**DATE: August 14, 1996**

v.

**BRINK'S, INCORPORATED,**

**RESPONDENT.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD<sup>1/</sup>

### **FINAL DECISION AND ORDER**

The Secretary issued a decision in this case, which arises under the employee protection provision of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C. § 31105 (1994), on January 26, 1996. In that Decision and Order of Remand (DOR), the Secretary held that Respondent had violated the STAA when it terminated Complainant on April 21, 1994. The Respondent was therefore ordered to offer Complainant reinstatement to his position as a messenger, or to a comparable position, to pay back pay and other appropriate compensation, with interest, and to pay Complainant's costs and expenses incurred in bringing this complaint, including a reasonable attorney's fee. The case was remanded to the Administrative Law Judge (ALJ) for a recommendation concerning Complainant's complete and specific remedy.

On April 18, 1996, the ALJ issued a [Recommended] Order Affirming Settlement. The Order does not dispose of the merits of this case, however, as the agreement entered into by the parties constitutes merely a joint stipulation concerning Complainant's remedy in this case. We

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<sup>1/</sup> On April 17, 1996, the Secretary of Labor re delegated authority to issue final agency decisions under, *inter alia*, the STAA and the implementing regulations, 29 C.F.R. Part 1978, to the newly created Administrative Review Board (ARB). Secretary's Order 2-96 (Apr. 17, 1996), 61 Fed. Reg. 19978 (May 3, 1996)(copy attached).

Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the ARB now issues final agency decisions. A copy of the final procedural revisions to the regulations, 61 Fed. Reg. 19982, implementing this reorganization is also attached. The Secretary's decision of January 26, 1996, and the entire record in this case have been reviewed by the ARB.

accept the ALJ's reliance on the parties' stipulation and issue the following order concerning damages.<sup>2/</sup> See *Asst. Sec. & Vilanj v. Lee & Eastes Tank Lines, Inc.*, Case No. 95-STA-36, Sec. Dec., Apr. 11, 1996, slip op. at 13; see also *Nichols v. Bechtel Const., Inc.*, Case No. 87-ERA-44, Sec. Dec., Nov. 18, 1993, slip op. at 12-13 and cases cited therein (holding that stipulation regarding back pay was "not so contrary to public policy as to warrant nonenforcement of the stipulation"); see generally *A. Duda & Sons Cooperative Association v. United States*, 504 F.2d 970, 975 (5th Cir. 1974)(parties bound by stipulations of fact).

## ORDER

Accordingly, pursuant to 49 U.S.C. § 31105(b)(3) it is ORDERED that:

1. Respondent Brink's, Inc., pay Complainant Joseph A. Caimano back pay in the amount of \$21,930.32;
2. Respondent pay Complainant pre-judgment interest, in the amount of \$2,246.35.
3. Respondent pay Complainant compensatory damages in the amount of \$4,231.50.
4. Respondent pay Complainant's attorneys' fees incurred in this proceeding in the amount of \$9,150.00.
5. Respondent pay Complainant's costs incurred in this proceeding in the amount of \$181.00.

SO ORDERED.

DAVID A. O'BRIEN  
Chair

KARL J. SANDSTROM  
Member

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<sup>2/</sup> The joint stipulation signed by the parties, which was filed on April 11, 1996 with the ALJ, provides:

1)Complainant shall waive reinstatement; 2)The amount of Complainant's back pay shall be \$21,930.32; 3)The amount of Complainant's pre-judgment interest shall be \$2,246.35; 4)The amount of Complainant's compensatory damages shall be \$4,231.50; 5)The amount of attorneys' fees for services rendered by Complainant's counsel before the Department of Labor shall be \$9,150.00; 6)The amount of costs for matters adjudicated before the Department of Labor shall be \$181.00; 7)A hearing on damages, attorneys' fees and costs is not necessary, based on the foregoing stipulations; 8)If the Secretary of Labor's decision is reversed on appeal and all appellate remedies have been exhausted, the foregoing stipulations will have no force or effect; 9)The parties make no stipulations or representations beyond the foregoing stipulations.