



In the Matter of:

CHARLES L. DALTON,

ARB CASE NO. 03-079

COMPLAINANT,

ALJ CASE NO. 99-STA-46

v.

DATE: January 16, 2004

COPART, INC.,

RESPONDENT.

BEFORE THE ADMINISTRATIVE REVIEW BOARD

ORDER OF REMAND

This case is before us on remand from the United States Court of Appeals for the Tenth Circuit. *Dalton v. United States Dep't of Labor*, 58 Fed.Appx. 442 (10th Cir. Feb. 19, 2003) (not selected for publication); www.oalj.dol.gov.

In 1999, the Respondent, Copart, Inc., fired the Complainant, Charles L. Dalton, after he refused to drive a truck that he believed was unsafe. Dalton filed a complaint with the Labor Department alleging that the termination violated the whistleblower protection provision of the Surface Transportation Assistance Act, 49 U.S.C.A. § 31105 (West 1999).

On November 27, 2000, a Labor Department Administrative Law Judge (ALJ) issued a Recommended Decision and Order recommending affirmance of Dalton's Complaint. *Dalton v. Copart, Inc.*, ALJ No. 1999-STA-0046. The ALJ ruled that Dalton was entitled to reinstatement and backpay in the amount of \$531 per week with interest.

On July 19, 2001, the Administrative Review Board reversed the ALJ and dismissed the complaint. Because the Board concluded that Dalton failed to establish that Copart violated § 31105, the Board did not review the ALJ's findings and conclusions concerning remedies. *Dalton v. Copart, Inc.*, ARB No. 01-020. Dalton appealed the Board's decision to the Tenth Circuit. On February 19, 2003, the Tenth Circuit reversed the Board, finding that substantial evidence supported the ALJ's determination that Copart did violate § 31105, and "remand[ing] for proceedings consistent with this order." 58 Fed.Appx. at 450.

Since the case was remanded to this Board from the Tenth Circuit, both parties have submitted arguments and alleged extra-record facts concerning the appropriateness of the remedies awarded by the ALJ in November 2000.

We hereby **REMAND** the case to the ALJ for further proceedings consistent with the order of the Tenth Circuit, including determining whether to reopen the record on the issue of remedies.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel