

EUGENE ARAGON

v.

DEPARTMENT OF TRANSPORTATION

DOCKET No.

DE07528110159

ORDER

The Department of Transportation filed a petition for review of the initial decision of the Board's presiding official finding that the agency had failed to prove its removal charges against the appellant by a preponderance of the evidence. Subsequent to the filing of the petition for review, the parties to this action filed a motion to dismiss the appeal because the parties had reached a settlement of the case, and submitted a copy of the settlement agreement for the record.

In *Richardson v. Environmental Protection Agency*, 5 MSPB 289, 290 (1981), the Board held that a settlement agreement may be admitted as part of the appellate record as long as the agreement is lawful on its face and appears to have been reached freely by the parties. We find that both requirements were met in this case, and accordingly accept the agreement for the record.

Based on the parties' settlement agreement, we hereby REOPEN this appeal under 5 C.F.R. § 1201.117, VACATE the initial decision dated August 18, 1981, and DISMISS the appeal.

This is the final order of the Merit Systems Protection Board in this appeal.

Appellant is hereby notified of the right to seek judicial review of the Board's action as specified in 5 U.S.C. § 7703. A petition for judicial review must be filed in the appropriate court no later than thirty (30) days after appellant's receipt of this order.

For the Board:

ROBERT E. TAYLOR,
Secretary.

WASHINGTON, D.C., April 22, 1981