



argument as conceded.”). Here, Plaintiff offers no opposition to Defendant’s motion as to his § 1981 claim but does argue that the court should deny summary judgment as to his negligence claim. *See* Pl.’s Opp’n to Def.’s Mot., ECF No. 30-4, at 7–9. The court therefore treats Defendant’s motion as to Plaintiff’s § 1981 claim as conceded.

Even if the court must consider Defendant’s argument on the merits, *cf. Winston & Strawn, LLP v. McLean*, 843 F.3d 503, 508 (D.C. Cir. 2016), Defendant prevails. Defendant puts forward a non-discriminatory reason for terminating Plaintiff: he lost custodial control of a package in violation of company policy. *See* Def.’s Mem. at 1. As Plaintiff offers no evidence to rebut this non-discriminatory reason, the court treats this factual assertion as true. *See* Fed. R. Civ. P. 56(e)(2). Accordingly, on the merits, there is no genuine dispute of material fact that would support racial animus as the reason for Plaintiff’s termination.

### III.

Defendant raises a host of arguments with respect to Plaintiff’s negligence claim but the court need only address two. First, Plaintiff does not dispute Defendant’s evidence establishing that the company provided him with a secure truck on the day he lost the package that led to his termination. *See* Pl.’s Resp. to Def.’s Stmt. of Undisputed Material Facts, ECF No. 30-2, ¶¶ 16–21 (conceding factual assertions that pre- and post-trip inspections found nothing wrong with the assigned truck). Thus, Plaintiff has failed to create a genuine dispute of material fact as to his central claim: that Defendant was negligent by supplying him with an unsecure truck.

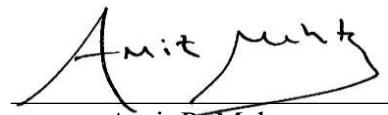
Additionally, as the court observed in the related case of *Howard v. Federal Express Corp.*, allowing Plaintiff to assert a negligence claim challenging his termination in this case would “do an end-run around the at-will employment doctrine.” No. 16-cv-02514 (APM), 2019 WL

2103126, at \*3 (D.D.C. May 14, 2019). For that separate reason, Defendant is entitled to summary judgment on Plaintiff's negligence claim.

IV.

For the foregoing reasons, Defendant's Motion for Summary Judgment is granted. A separate final order accompanies this Memorandum Opinion.

Dated: November 4, 2019

  
Amit P. Mehta  
United States District Judge