



Issue Date: 27 June 2014

Case No.: 2014-FRS-00048

In the Matter of:
ROGER GRINNELL,
Complainant,

v.

BURLINGTON NORTHERN SANTA FE RAILWAY CO.,
Respondent.

ORDER DISMISSING COMPLAINT

This matter arises out of a complaint filed by Roger Grinnell (“Complainant”) against Burlington Northern Santa Fe Railway Company (“Respondent”) under Section 1521 of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109. The FRSA allows the Complainant to file an action in United States District Court if the Department of Labor has not issued a final decision within 210 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant.¹

Complainant filed a complaint with the Occupational Safety and Health Administration (“OSHA”) on November 7, 2013. The Secretary’s Findings were issued on January 28, 2014, dismissing the complaint. Complainant submitted his objections to the Secretary’s Findings to the Chief Administrative Law Judge on February 18, 2014, and requested a hearing before an administrative law judge. On March 27, 2014, the parties were advised that this matter had been assigned to the undersigned.

On June 16, 2014, Complainant notified all parties under 49 U.S.C. § 20109(d)(3) that he intended to file a complaint in United States District Court. Although the notification did not attach a copy of a filed complaint, the statement of Complainant’s intent to file a complaint in federal district court is accepted under his counsel’s ethical duty not to make false representations in this proceeding. The Department of Labor has not issued a final decision within 210 days of the filing of the administrative complaint on November 7, 2013. Moreover, there are no allegations or evidence of record which indicate to me that there has been any delay due to the bad faith of the Complainant.

¹ 49 U.S.C. § 20109(d)(3).

Accordingly, **IT IS HEREBY ORDERED** that the complaint in the above-captioned matter be, and the same hereby is, **DISMISSED** without prejudice before the undersigned.

SO ORDERED.

JOHN P. SELLERS, III
Administrative Law Judge