



Issue Date: 16 May 2017

CASE NO.: 2014-FRS-154

IN THE MATTER OF

KENNETH PALMER
Complainant

v.

**CANADIAN NAT'L RAILWAY/
ILLINOIS CENTRAL RAILROAD COMPANY**
Respondent

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT**

This case arises from a complaint filed by Kenneth Palmer (“Complainant”) against Canadian National Railway/Illinois Central Railroad Company (“Respondent”) under the “whistleblower” protection provisions of the Federal Railroad Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (“9/11 Act”), Pub. L. No. 110-53. The 9/11 Act was the result of a Conference Report, H.R. Rep. 110-259 (July 25, 2007) (Conf. Rep.).

The undersigned issued an initial Decision and Order in this matter on January 19, 2016, which was reversed and remanded by the Administrative Review Board on September 30, 2016. The record in this matter was received by the undersigned from the ARB on May 1, 2017. Thereafter, an Order on Remand was issued, ordering the parties to advise the undersigned whether there is any need for a formal hearing on remand or whether this matter can be handled based on the existing record merely by establishing a briefing schedule on the issues on remand.

By correspondence dated May 11, 2017, Counsel for Respondent notified the Court that the case had settled and submitted a copy of the Settlement and Final Release Agreement for the undersigned’s approval pursuant to 29 CFR § 1982.111.

I first note that the parties were ably represented by counsel. Further, the Complainant’s signature on the agreement represents his understanding of the agreement’s provisions and the associated rights and obligations. Having reviewed the agreement, I find the provisions are fair, adequate, and not contrary to the public interest. The settlement also supports a finding that the complaint be dismissed. Consequently, approval of the agreement is appropriate. Upon my approval, the parties shall implement their settlement as specifically stated in the Agreement.

The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I will have the settlement agreement sealed. However, notwithstanding the parties' agreement, the parties' submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a). If a FOIA request is made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption.

ORDER

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Settlement and Final Release Agreement is **APPROVED**; and
2. The complaint is **DISMISSED WITH PREJUDICE**.

SO ORDERED this 16th day of May, 2017, at Covington, Louisiana.

CLEMENT J. KENNINGTON
Administrative Law Judge