



Issue Date: 16 September 2014

Case No.: 2014 FRS 98

In the Matter of
Racine Smith,
Complainant

v.

Illinois Central Railroad Company,
Respondent

Appearances: Mr. Craig W. Church, Attorney
For the Complainant

Mr. Noah G. Lipschultz, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**FINAL ORDER APPROVING SETTLEMENT &
DISMISSAL OF COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provisions of the Federal Rail Safety Act of 2007 (“FRS”), Title 49 United States Code Section 20109. Pursuant to a Continuance Order, dated June 3, 2014, I continued the proceedings to enable the parties to engage in preliminary discussions. On September 15, 2014, I received the parties’ settlement agreement.

I first note that the parties were ably represented by counsel. Further, the Complainant 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 public interest.¹ The settlement also supports a finding that the complaint be dismissed with prejudice. Consequently, I approve the settlement agreement and the parties shall implement their settlement as specifically stated in the agreement.

¹See *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep’t of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec’y Mar. 23, 1989) and *Heffley v. NGK Metals Inc.*, 89-SDW-2 (Sec’y Mar. 6, 1990).

The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I have sealed the settlement agreement. 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.² I have included on the sealed agreement a provision that counsel shall be notified of any FOIA request prior to disclosure.

Accordingly, the FRS complaint of Mr. Racine Smith is **Dismissed with Prejudice**.

SO ORDERED:

RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: September 15, 2014
Washington, DC

²See *Debose v. Carolina Power and Light Co.*, 92-ERA-14 (Sec'y Feb. 7, 1994) and *Darr v Precise Hard Chrome*, 95-CAA-6 (Sec'y May 9, 1995).