

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 03 September 2014

CASE NO: 2014-FRS-00115

In the Matter of:

SANDRA STEWART,
Complainant,

v.

UNION PACIFIC RAILWAY COMPANY,
Respondent.

ORDER DISMISSING MATTER

This matter arises under the Federal Rail Safety Act ("FRSA") codified at 49 U.S.C. § 20109, and the implementing regulations found at 29 C.F.R. Part 1982. On August 4, 2014, Complainant submitted a letter giving 15 day notice of her intent to file the matter in U.S. District Court because the Secretary of Labor had not issued a final decision within 210 days of her filing the complaint. 49 U.S.C. § 20109(d)(3); 29 C.F.R. § 1982.114. The notice of intent to file in District Court was served on all parties and there has been no response.

Complainant filed her complaint with the Occupational Safety and Health Administrative ("OSHA") on January 30, 2012. OSHA denied the complaint in a letter dated May 13, 2014. She filed her request for hearing in this office on June 16, 2014. The 210 days for issuance of a final decision expired on or about August 28, 2012. There has been no showing that the delay was due in any part to bad faith by Complainant. 29 C.F.R. § 1982.114(a).

Therefore, since the Secretary of Labor has not issued a final decision within 210 days of filing of the complaint, there has been no showing that the delay was due in any part to bad faith by Complainant, and Complainant has given the required 15 day notice of her intention to file in District Court, this matter is hereby dismissed. All dates and orders issued in this matter are vacated. The file is closed.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge