

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 08 January 2015

Case No.: 2014-FRS-00086

In the Matter of

KEEVA WILLIAMS
Complainant

v.

AMTRAK
Respondent

ORDER CANCELLING HEARING; AND DISMISSING MATTER

This matter arises out of a complaint of retaliation filed pursuant to the employee protection provisions of the Federal Rail Safety Act, 49 U.S.C. § 20109. Governing regulations are at 29 C.F.R. part 1982. The Complainant is represented by counsel.

By Order dated October 23, 2014, I removed this matter from the hearing calendar, based on Complainant's counsel's assertion that the Complainant would shortly file an action in United States District Court. By Order dated December 4, 2014, I directed the Complainant to notify me, by December 15, 2014, of the status of the district court action, and informed the parties that if a District Court complaint had not been filed, I would return this matter to the hearing calendar.

Under cover of letter dated December 22, 2014, received in my office on December 29, 2014, Complainant's counsel informed me that Complainant had filed an action in United States District Court for the Southern District of New York, and provided a copy of the District Court complaint. Williams v. National Railroad Passenger Corp., No.14-cv-10009 (filed Dec. 19, 2014).¹ Under the Act, a complainant may file an action in District Court if the Department of Labor has not issued a final decision on a complaint within 210 days after the complaint was submitted to the Department, provided the delay was not due to the bad faith of the employee.

¹ On December 22, 2014, I returned this matter to the hearing calendar and set a hearing date of March 3, 2015, because I had no evidence that the Complainant had filed an action in District Court. Because the Complainant has filed her action in District Court, I CANCEL the hearing.

49 U.S.C. § 20109(d)(3). Under the Federal Rail Safety Act, filing a complaint in United States District Court vests exclusive jurisdiction in that forum. 49 U.S.C. § 20109(d)(3); see also 29 C.F.R. § 1982.114(a).

Accordingly, I DISMISS this matter based on lack of jurisdiction.

SO ORDERED.

ADELE H. ODEGARD
Administrative Law Judge

Cherry Hill, New Jersey