



Issue Date: 15 July 2015

CASE NO.: 2015-FRS-00044

IN THE MATTER OF

**TIMOTHY ADAMS,
Complainant**

v.

**CSX TRANSPORTATION, INC.,
Respondent**

**DECISION AND ORDER GRANTING COMPLAINANT'S
MOTION TO DISMISS COMPLAINT**

This matter arises from a claim filed on December 19, 2014 by Complainant under the employee 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 complaint alleged that Complainant was discharged for absenteeism after he sought medical treatment for non-work related back problems. The Occupational Safety and Health Administration (OSHA), as the agent of the Secretary of Labor, investigated the complaint and reported its findings on April 1, 2015. OSHA found there was no reasonable cause to believe Respondent violated 49 U.S.C. § 20109. On April 13, 2015, Complainant appealed those findings to the Office of Administrative Law Judges (OALJ).

On May 26, 2015, Respondent filed a Motion to Dismiss Complaint asserting that because Complainant's absences were due to non-work related injuries, his claim is not actionable under Section 20109(c). Complainant has not filed a response to the Motion to Dismiss Complaint. On July 9, 2015, Complainant filed a Motion to Dismiss his claim.

Complainant's Motion to Dismiss is hereby **GRANTED**. The motion is made and granted at the request of Complainant; no determination on the merits of the complaint has been made and none should be inferred from this ruling.

ORDER

Based upon the foregoing, Complainant's Motion to Dismiss is **GRANTED** and the appeal is **DISMISSED WITH PREJUDICE**. The objections to the Assistant Secretary's findings are **WITHDRAWN** and the findings stated in the letter of April 1, 2015, shall constitute the Secretary's final order in this matter. See 29 C.F.R. § 1982.111(c).

So ORDERED.

**LARRY W. PRICE
ADMINISTRATIVE LAW JUDGE**