



Issue Date: 10 April 2018

Case No.: 2016-FRS-00002

In the Matter of

CHARLES DOUCET
Complainant

v.

UNION PACIFIC RAILROAD COMPANY,
BRIAN MCGAVOCK,
JOHN HUDDLESTON, and
JASON JENKINS
Respondents

ORDER OF DISMISSAL

This proceeding arises under the employee protection provisions of the Federal Railroad Safety Act of 2007 (FRSA), Title 49 United States Code Section 20109 and its implementing regulations at 29 C.F.R. § 1982. Complainant filed a complaint with the Secretary of Labor on or about September 16, 2015 alleging Respondent discharged him in retaliation for engaging in activity protected under the FRSA. On September 25, 2015, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), issued a letter dismissing the OSHA complaint because there was no reasonable cause to believe Respondent violated the FRSA.

Under the employee protection provision of the FRSA, if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint, and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. 49 U.S.C. § 20109(d)(3). In this matter, more than 210 days have passed since Complainant originally filed his complaint and there is no indication the delay is due to bad faith on the part of Complainant.

On March 10, 2016, Complainant filed a "Notice of Intention to File Original Action in United States District Court." On March 16, 2016, the undersigned issued an "Order Cancelling Hearing Because Complainant Intends to File a Complaint in U.S. District Court" and cancelled the hearing. As of the date of this Order, neither party has made any additional filings with the Office of Administrative Law Judges (OALJ) or further pursued this claim before OALJ.

Accordingly, the above-captioned complaint filed before the Office of Administrative Law Judges is DISMISSED.

SO ORDERED this day at Covington, Louisiana.

TRACY A. DALY
ADMINISTRATIVE LAW JUDGE