



Issue Date: 29 June 2016

OALJ Case No.: 2016-FRS-00040

In the Matter of

ROBERT DURAN,
Complainant

v.

SAN LUIS CENTRAL RAILROAD,
Respondent,

ORDER OF DISMISSAL

On October 29, 2015, Mr. Robert Duran ("Complainant") filed a *Notice of Whistleblower Complaint* with the U.S. Department of Labor, Occupational Safety and Health Administration ("OSHA") against San Luis Central Railroad ("Respondents"). On March 21, 2016, OSHA issued its investigation report in the above caption matter. In brief, OSHA found no reasonable cause to believe Respondent violated 49 U.S.C. § 20109. After the OSHA investigation, Complainant filed a request for a *de novo* hearing in the above-captioned matter on April 5, 2016. On June 9, 2016, Complainant filed a *Notice of Intention to File Original Action in United States District Court* pursuant to the Federal Rail Safety Act ("FRSA"), 49 U.S.C. § 20109(d)(3):

"[I]f 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. . . ."

Complainant's FRSA complaint was filed more than 210 days ago, on October 29, 2015, and the Secretary of Labor has not issued a final decision, as of the current date. Therefore, Complainant is in compliance with the

FRSA requirements of 49 U.S.C. § 20109(d)(3). In light of the foregoing, it is hereby **ORDERED** that this matter is **DISMISSED** without prejudice.

WILLIAM S. COLWELL

Associate Chief Administrative Law Judge

Washington, D.C.
WSC:LDG