



Issue Date: 19 January 2018

Case No.: 2016-FRS-00018

In the Matter of:

KENNETH MORGAN,

Complainant,

v.

BNSF RAILWAY CO.,

Respondent.

**ORDER APPROVING COMPLAINANT'S WITHDRAWAL OF OBJECTIONS
AND ORDER OF DISMISSAL**

This case arises under the employee protection provisions of the Federal Railroad Safety Act, U.S. Code, Title 49, § 20109, as amended ("FRSA"), and its implementing regulations at 29 CFR, Part 1982. Formal hearing was held July 7 and 8, 2016, in Portland, Oregon.

On January 17, 2018, Complainant filed a Motion to Withdraw Complaint. Complainant's motion states that he "withdraws his objections to the findings of the Assistant Secretary" in this matter, pursuant to 29 C.F.R. §1982.111(c). Complainant "agrees and moves" that this case be dismissed with prejudice, without an award of any attorneys' fees, costs, or expenses.

The regulation at 29 C.F.R. § 1982.111(c) provides, in pertinent part:

At any time before the Assistant Secretary's findings and/or order become final, a party may withdraw its objections to the Assistant Secretary's findings and/or order by filing a written withdrawal with the ALJ.... The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections **If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary.**

(Emphasis added).

Upon review of the record before me, I **APPROVE** Complainant Kenneth Morgan's withdrawal of his objections to the Secretary's findings.

In view of the foregoing, this case is **DISMISSED** with prejudice, without costs awarded to either party.

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge

MM/jcb
Newport News, VA