



**Issue Date: 16 May 2017**

Case No.: 2016-FRS-00055  
2016-FRS-00056

In the Matter of

**JEANNETTE M. WALLIS**  
Complainant

v.

**BNSF RAILWAY COMPANY**  
Respondent

**ORDER DISMISSING COMPLAINT AND REINSTATING OSHA FINDINGS**

This matter involves a dispute concerning alleged violations by BNSF Railway Company (“Respondent”) of the Federal Rail Safety Act (“FRSA”) or the “Act,” 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (Aug. 3, 2007), as implemented by regulations at 29 C.F.R Part 1982. Complainant is represented by counsel. The hearing in this matter is currently scheduled for May 30, 2017.

On May 12, 2017, the Tribunal received via email a letter from Respondent’s counsel. Attached to this letter is a document entitled “Stipulation for Complainant’s Withdrawal of Claims without Costs or Fees and with Prejudice” signed by counsel for both parties. In this document the Complainant requests to withdraw her appeal in this matter. The parties cite to “disputes beyond the jurisdiction of this Tribunal”, and reference proceedings in federal court and Superior Court in Washington State. Attached to this request is Complainant’s complaint before the Washington State Superior Court.

29 C.F.R. 1982.111(c) provides in part:

(c) 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. .... 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

The Tribunal sees no reason not to accept Complainant's request to withdraw her complaint and notes that she is represented by counsel. There are no pending motions. Further, there is no indication or representation by counsel that the withdrawal is pursuant to any type of settlement agreement, which would require the Tribunal's approval.

Accordingly,

- Complainant's written request to withdraw her August 15, 2014 complaint to OSHA is **GRANTED**;
- Her complaint is hereby **DISMISSED** with prejudice.
- OSHA's findings are **REINSTATED, AFFIRMED, and FINAL**.
- The hearing set to begin May 30, 2017 is hereby **CANCELLED**.

SO ORDERED.

**SCOTT R. MORRIS**  
Administrative Law Judge

Cherry Hill, New Jersey