



Issue Date: 29 November 2016

Case No.: 2016-FRS-00031

In the Matter of

DAVID ZATUCHNEY
Complainant

v.

**METRO NORTH COMMUTER
RAILROAD COMPANY**
Respondent

**ORDER APPROVING COMPLAINANT'S WITHDRAWAL
OF OBJECTIONS AND CANCELLATION OF HEARING**

This matter arises under the employee protection provisions of the Federal Rail Safety Act ("FRSA" or "the Act"), 49 U.S.C. § 20109, as amended.¹ The employee protection provisions of the Act apply to railroad employees who feel they have been subjected to retaliatory discipline or discrimination from their employer for engaging in protected activities related to railway safety. Procedural regulations concerning the conduct of cases before the Office of Administrative Law Judges are found at Title 29, Part 18, Subpart A (2015) of the Code of Federal Regulations. A hearing is scheduled for December 5, 2016 in New York, New York.

On November 8, 2016 counsel for Complainant, filed by facsimile Complainant's Withdrawal of Objections. Complainant is requesting approval of withdrawal of his objections to the U.S. Department of Labor, OSHA, Assistant Regional Administrator's Findings and Order dated January 6, 2016. To date, and with time for such filing expired, no objection has been received from the Respondent.

The Secretary's regulations provide at 29 C.F.R. § 1982.111(c), that (1) a party may withdraw its objections to the Secretary's findings at any time before that decision becomes final by filing a written withdrawal with the administrative law judge ("ALJ") and (2) the ALJ will determine whether to approve the withdrawal of the objections to the Secretary's findings.

¹ Pub. L. 110-53, Title XV, §1521, Aug. 3, 2007, 121 Stat. 444; Pub. L. 110-432, Div. A, Title IV, § 419, Oct 16, 2008, 122 Stat. 4892.

Complainant should be aware that withdrawal of his objections will result in dismissal of his complaint, without the opportunity to pursue it further. I note that I have the authority to approve Complainant's withdrawal of objections to the Secretary's findings. 29 C.F.R. § 1982.111(c). If I approve a request to withdraw objections, and there are no other pending objections, then the Secretary's findings outlined in the letter from the Assistant Regional Administrator to Complainant dated January 6, 2016 are affirmed and will become the final order of the Secretary. *Id.*

Upon review, I find good cause and approve Complainant's Withdrawal of Objections, pursuant to 29 C.F.R. § 1982.111(c).

The hearing scheduled for December 5, 2016 in New York, New York is **CANCELLED**.

SO ORDERED.

THERESA C. TIMLIN
Administrative Law Judge

Cherry Hill, New Jersey