

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 29 January 2018

Case Number: 2017-FRS-00042
OSHA No.: 5-4760-16-016

In the Matter of:

LORI BRISBOIS,
Complainant,

v.

SOO LINE RAILROAD
d/b/a CANADIAN PACIFIC RAILWAY CO.,
Respondent.

ORDER CANCELLING HEARING AND DISMISSING CASE

This matter arises out of a claim filed under the employee protection provisions of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53 (July 25, 2007), and Section 419 of the Rail Safety Improvement Act of 2008 (RSIA), Pub. L. No. 110-432 (Oct. 16, 2008).

On or about June 15, 2016, Complainant filed a complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) alleging her employer, Canadian Pacific Railway Co., violated the FRSA’s employee protection provisions when it disciplined her for using a cellphone in violation of company policy. After conducting an investigation, the OSHA’s Regional Administrator issued a final determination letter on February 21, 2017, finding no violation of the Act and dismissed the complaint. By letter dated March 17, 2017, Complainant filed objections and requested a hearing before an administrative law judge. This matter is currently scheduled for formal hearing on March 27, 2018 in Madison, Wisconsin.

On July 31, 2017, Complainant’s counsel filed a letter, which states that “Complainant voluntarily withdraws her appeal to the Office of Administrative Law Judges” and “understands that the Secretary’s February 21, 2017 Findings and dismissal order...now stand as the final

order of the Secretary of Labor.” Complainant requests that her case be dismissed with prejudice and that each party bear its own costs.¹

The rules governing withdrawal of FRSA complaints provide that “at any time before the ... findings and preliminary order become final, a party may withdraw its objections to the ... findings and/or preliminary order by filing a written withdrawal with the administrative law judge,”² who shall then determine whether to affirm any portion of the findings or preliminary order or approve the withdrawal.

No final decision has been issued in the matter. Upon review of the entire record, and for good cause shown, said request to withdraw is hereby GRANTED. Accordingly,

Order

IT IS HEREBY ORDERED that the hearing in the instant case scheduled for March 27, 2018 in Madison, Wisconsin, and is hereby, CANCELLED.

Consistent with the regulations, the above captioned matter is hereby DISMISSED with prejudice, without costs awarded to either party.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

¹ On January 26, 2018, a member of my staff contacted Respondent’s counsel who indicated he did not oppose the instant request.

² 29 C.F.R. § 1982.111(c).