

U.S. Department of Labor

Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

(415) 625-2200
(415) 625-2201 (FAX)



Issue Date: 04 April 2017

CASE NO.: 2017-FRS-00031

In the Matter of:

SCOTT FINLEY,
Complainant,

v.

BURLINGTON NORTHERN SANTA FE RAILROAD,
Respondent.

ORDER GRANTING WITHDRAWAL OF COMPLAINT
AND DISMISSING CASE

This matter arises under the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109, and the implementing regulations found at 29 C.F.R. Part 1982. A formal hearing is scheduled for July 26 and 27, 2017, in Seattle, Washington. Complainant is a self-represented litigant. Employer is represented by attorney Paul Balanon.

On February 6, 2017, the Secretary of Labor, acting through OSHA, determined that there Respondent presented clear and convincing evidence that it did not retaliate against Complainant for engaging in protected activity. On February 14, 2017, Complainant timely filed a request for hearing (“Complaint”).

On March 27, 2017, pursuant to 29 C.F.R. § 1982.111(c), Complainant filed a request to dismiss his complaint. The letter requesting dismissal noted that due to unforeseen medical issues, Complainant would not be able to further pursue this matter and requested that the case be closed.

“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.” 29 C.F.R. § 1982.111(c).

Here, Complainant filed a motion to dismiss the complaint due to medical reasons. No other objections are pending. Accordingly, Complainant’s motion is granted. The complaint is withdrawn and dismissed with prejudice.

The February 6, 2017, finding by OSHA acting on behalf of the Secretary of Labor is the final order of the Secretary. All dates are vacated. This matter is closed.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge