

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: 25 April 2018

CASE NO. 2017-FRS-00094

In the Matter of

GREGORY HENRY,
Complainant,

v.

GRAND TRUNK WESTERN RR. CO.,
Respondent.

ORDER OF DISMISSAL

This case arises under the Federal Rail Safety Act, 49 U.S.C. § 20109. It is set for a hearing in Ann Arbor beginning on June 4, 2018. On April 24, 2018, Complainant notified this Office of his intent to seek a *de novo* hearing in the district court. *See* 49 U.S.C. § 20109(d)(3); 49 C.F.R. § 1982.114. As Complainant filed his OSHA complaint on November 23, 2015, more than 210 days have passed, and there is no final order from the Secretary of Labor. Complainant has not engaged in bad faith delay (or any other delay). Accordingly, the statute and regulations permit him to pursue the matter as he intends, in the district court. *Id.*

Accordingly, this matter is DISMISSED without prejudice to Complainant's pursuing his claim in the appropriate federal district court. Within 7 days after filing in the district court, Complainant must file at this Office a copy of the district court complaint bearing the court's file stamp. 49 C.F.R. § 1982.114(c).

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge