



Issue Date: 25 July 2017

OALJ Case No.: **2017-FRS-00063**
OSHA Case No.: **3-6540-15-029**

In the Matter of:

ANTHONY SESSA,
Complainant,

v.

AMTRAK,
Respondent.

ORDER CANCELING HEARING AND DISMISSING CLAIM

This case arose under the employee protection provisions of the Federal Railroad Safety Act (“FRSA”) and its implementing regulations. Complainant filed a complaint with the Secretary of Labor on December 10, 2014, alleging that Respondent retaliated against him by terminating him for reporting unsafe working conditions. On May 24, 2017, the Regional Administrator of the Occupational Safety and Health Administration (“OSHA”) notified Complainant that an investigation showed there was no reasonable cause to believe a violation of the FRSA had occurred. Specifically, the Regional Administrator explained that Complainant failed to respond to two requests to provide OSHA with additional evidence. On April 3, 2017, the Regional Administrator sent a letter informing Complainant that refusal to respond to further inquiries would result in dismissal of the complaint due to lack of cooperation. After no additional contact was made by Complainant, the Regional Administrator dismissed his complaint. On May 25, 2017, Complainant filed objections to the findings and requested a hearing before an administrative law judge.

This case was docketed and assigned to me on June 22, 2017. On June 27, 2017, I issued an initial notice of hearing and prehearing order instructing the parties to confer and agree on a mutually agreeable hearing date and location. On July 13, 2017, I set this case for hearing on November 14-17, 2017, in Philadelphia, Pennsylvania. On July 19, 2017, Complainant submitted a copy of the complaint he filed in the United States District Court of New Jersey, on June 20, 2017, pursuant to 49 U.S.C. § 20109(d)(3), which allows a Complainant to bring an action in federal court if the Secretary of Labor has not issued a final decision within 210 days of the filing of his complaint.

ORDER

It is hereby **ORDERED** that the formal hearing scheduled for November 14-16, 2017, in Philadelphia, Pennsylvania, is **CANCELLED**.

IT IS FURTHER ORDERED that the complaint filed by Anthony Sessa, on December 10, 2014, under the Federal Rail Safety Act, and currently pending before the Office of Administrative Law Judges, is **DISMISSED**, without costs awarded to either party. The case is closed and will be returned to the Regional Administrator.

SO ORDERED.

MORRIS D. DAVIS
Administrative Law Judge

Washington, D.C.