



Issue Date: 28 September 2018

CASE NO. 2018-FRS-00045

*In the Matter of*

**ILLDERBRANDO ROSSICH,**  
Complainant,

v.

**BNSF RAILWAY COMPANY,**  
Respondent.

**ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**FOR PURPOSE OF DE NOVO FILING IN U.S.**  
**DISTRICT COURT**

On September 28, 2018, Complainant notified this Office that he is exercising his right to file a *de novo* action in the U.S. District Court. *See* 49 U.S.C. § 20109(d)(3); 29 C.F.R. § 1982.114(a). Complainant filed his administrative complaint with the Occupational Safety & Health Administration on October 6, 2017. As more than 210 days have passed, the Secretary has not issued a final, and Complainant there has been no delay (and none due to any bad faith of any party), Complainant has satisfied the statutory and regulatory requirements to elect this course of action. Accordingly,

This matter is DISMISSED without prejudice to Complainant's filing it *de novo* in the appropriate U.S. District Court. *Id.*<sup>1</sup>

SO ORDERED.

STEVEN B. BERLIN  
Administrative Law Judge

---

<sup>1</sup> Complainant's pending motion to compel is denied as moot.