

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 05 June 2018

CASE NO.: 2018-FRS-00028

In the Matter of:

MATTHEW SILBERMAN,
Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

ORDER APPROVING WITHDRAWAL OF OBJECTIONS
AND
ORDER DISMISSING MATTER

This matter arises under the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended, and the implementing regulations found at 29 C.F.R. Part 1982. Complainant is self-represented. Attorney Ryan Wilkins represents Respondent.

The matter is scheduled for hearing on August 22 and 23, 2018, in Denver, Colorado, based upon Complainant’s allegation that he suffered a work related injury in April 2012 and that Respondent violated the FRSA by terminating his medical benefits in 2017. The Secretary issued a written determination on January 17, 2018, finding that there was no reasonable cause to believe Respondent violated the FRSA. On January 26, 2018, Complainant timely filed an appeal of the determination.

On May 23, 2018, I received a copy of Complainant’s request to withdraw his objections to the Secretary’s findings “effective immediately.” The request is undated, but the proof of service indicates it was mailed by Complainant on May 14, 2018. No responses were received.

This is not the first time Complainant has requested to withdraw this matter. I held a conference call with the parties on April 9, 2018, to discuss in part Complainant’s request to withdraw the hearing. Complainant had telephoned this office on March 16, 2018, stating that he intended to withdraw the complaint, but no written withdrawal had been received. During the April 9, 2018 telephone conference, which was not recorded, Complainant stated he no longer wished to withdraw his complaint after discussions with the attorney for Respondent. The matter was then set for hearing in August as agreed by the parties.

Complainant's May 23 request to withdraw the complaint expresses displeasure with how the process has proceeded and notes that it was far more taxing on him physically and mentally than he had anticipated. He therefore requested to withdraw the complaint.

"At any time before the Assistant Secretary's findings and/or order become final, a party may withdraw its objections to the Assistant Secretary's findings and/or order by filing a written withdrawal with the ALJ." 29 C.F.R. § 1982.111(c). "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." *Id.*

Based upon the request, I grant Complainant's motion to withdraw his objections to the Assistant Secretary's findings. Therefore, the Assistant Secretary's Findings issued on January 17, 2018, are the final order of the Secretary. All dates are vacated. The matter is dismissed with prejudice.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge