

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 08 August 2018

Case No.: 2018-FRS-00048
OSHA No.: 5-4760-16-019

In the Matter of:

MICHAEL WATROBA,
Complainant,

v.

SOO LINE RAILROAD COMPANY d/b/a CANADIAN PACIFIC,
Respondent.

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS,
CANCELLING HEARING AND DISMISSING CLAIM**

The above-captioned case arises under the whistleblower protection provisions of the Federal Rail Safety Act of 2007 (“FRSA”), 49 U.S.C. § 20109, as amended, and implementing regulations found at 29 C.F.R. Part 1982.

On or about July 12, 2016, Complainant filed a complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) alleging his employer, the Soo Line Railroad Company (Respondent), retaliated against by suspending him from service for reporting a work related injury. After conducting an investigation, the Secretary of Labor, acting through the Regional Administrator for the Occupational Safety and Health Administration’s Chicago, Illinois office, issued a final determination letter on or about March 12, 2018, finding reasonable cause to believe Respondent violated the Act and ordered, in part, payment of back wages and benefits lost as a result of the suspension. On April 12, 2018, Employer filed objections to the *Secretary’s Findings*. By notice issued May 29, 2018, this matter is currently scheduled for formal hearing on September 18, 2018 in St. Paul, Minnesota.

On July 31, 2018, Complainant submitted a letter advising that he is dismissing the instant whistleblower claim as part of a settlement in another case brought under the Federal Employers Liability Act. Complainant did not submit a copy of any proposed settlement agreement.

The rules governing withdrawal of FRSA complaints provide that “at any time before the ... findings and preliminary order become final, a party may withdraw its objections to the ... findings and/or preliminary order by filing a written withdrawal with the administrative law

judge,” who shall then determine whether to affirm any portion of the findings or preliminary order or approve the withdrawal. However, if the withdrawal of objections is based on a settlement, the settlement must be submitted to the ALJ for approval. 29 C.F.R. § 1982.111(c). As the parties have not submitted to the court the terms of the proposed settlement agreement, I will treat the filing as unopposed requests by Respondent to withdraw its request for a hearing and by Complainant to dismiss his July 12, 2016 OSHA complaint.¹ Upon review of the entire record and for good cause shown, said requests are hereby GRANTED. Accordingly,

Order

IT IS HEREBY ORDERED that the hearing in the instant case scheduled for September 18, 2018 in St. Paul, Minnesota be, and is hereby, CANCELLED.

Consistent with the regulations, the above captioned matter is hereby DISMISSED with prejudice without costs or attorney’s fees awarded to either party.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

¹ On August 7, 2018, a member of my staff contacted Respondent’s counsel, who did not object to treating Complainant’s filing as such.