

U.S. Department of Labor

Office of Administrative Law Judges
5100 Village Walk, Suite 200
Covington, LA 70433

(985) 809-5173
(985) 893-7351 (Fax)



Issue Date: 29 August 2019

Case No.: 2019-FRS-00084

In the Matter of:

TROY HUMBLE

Complainant

v.

BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY

Respondent

ORDER APPROVING WITHDRAWAL OF OBJECTIONS AND DISMISSING CLAIM

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

On October 24, 2018, Complainant filed a complaint with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) alleging Respondent retaliated against by abolishing his job and placing him under investigation for failing to report an accident. On May 30, 2019, the Secretary of Labor, acting through the Regional Administrator for OSHA issued a final determination letter concluding there was no reasonable cause to believe Respondent violated the FRSA, and dismissed the complaint. On July 17, 2019, Complainant, through counsel, filed objections to the findings and requested a hearing before the Office of Administrative Law Judges. The undersigned issued a Notice of Case Assignment and Prehearing Order on August 16, 2019.

On August 26, 2019, Complainant filed a "Motion to Withdraw Objections to OSHA Findings" and moved for the undersigned to dismiss this action against Respondent.

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. 29 C.F.R. § 1982.111(c).

Upon review of the record and for good cause shown, Complainant's motion is GRANTED. Consistent with the regulations, the above-captioned matter is DISMISSED with prejudice without costs or attorney's fees awarded to either party.

SO ORDERED.

TRACY A. DALY
Administrative Law Judge