



Issue Date: 12 May 2020

Case No.: 2019-FRS-00115
OSHA No.: 3-0050-19-126

In the Matter of:

BRIAN SCHWAB,
Complainant,

v.

AMTRAK,
Respondent.

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS,
CANCELLING HEARING, 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 or about April 23, 2019, Brian Schwab (“Complainant”) filed a complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging that his employer, AMTRAK (“Respondent”), retaliated against him by terminating his employment after he raised safety and security concerns. On July 30, 2019, the Assistant Secretary of Labor, acting through the Regional Administrator for OSHA’s Philadelphia office, issued a final determination letter (“Findings”) concluding that “based on the information thus far gathered in the investigation, OSHA is unable to conclude that there is reasonable cause to believe a violation of the statute occurred,” and dismissed the complaint. On September 19, 2019, Complainant, through counsel, filed objections to the Findings and requested a hearing before the Office of Administrative Law Judges. By notice issued December 2, 2019, this matter is currently scheduled for formal hearing on June 1, 2020 in Washington, D.C.

On May 11, 2020, Complainant, through counsel, notified the court that he is moving to dismiss the instant whistleblower claim.

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). I will treat Complainant's notification as a motion to withdraw his September 19, 2019 objections to the Findings. Upon review of the entire record and for good cause shown, said Motion is hereby GRANTED. Accordingly,

Order

IT IS HEREBY ORDERED that the hearing in the instant case scheduled for June 1, 2020 in Washington, D.C. be, and is hereby, CANCELLED.

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

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge