



Issue Date: 03 September 2020

OALJ Case No.: 2020-FRS-00052
OSHA Case No. 5-1260-20-081

In the Matter of:

TOBIAS WALKER,
Complainant,

v.

METRA REGIONAL TRANSPORTATION AUTHORITY,
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 (“FRSA”), 49 U.S.C. § 20109, as amended, and implementing regulations found at 29 C.F.R. Part 1982.

On or about March 6, 2020, Tobias Walker filed a complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging his employer, the Metra Regional Transportation Authority (“Respondent”), retaliated against in violation of the FRSA when he was disciplined for using pre-approved Family Medical Leave Act days. On March 24, 2020, a Regional Supervisory Investigator for the Occupational Safety and Health Administration’s Chicago, Illinois office, issued a final determination letter (“Findings”) concluding the “evidence did not support that Complainant engaged in a protected activity within OSHA’s authority under FRSA,” and dismissed the complaint. On April 20, 2019, Complainant, through counsel, filed objections to the Findings and requested a hearing before the Office of Administrative Law Judges. This matter is currently scheduled for a formal hearing on November 10, 2020 in Milwaukee, Wisconsin.

On September 2, 2020, Complainant, through counsel, filed *Notice of Voluntary Dismissal*, advising that he is moving to dismiss the instant whistleblower complaint.

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 notice as a request to withdraw his April 20, 2020 objections to the Findings.¹ Upon review of the entire record, and for good cause shown, said request is hereby GRANTED. Accordingly,

Order

IT IS HEREBY ORDERED that the hearing in the instant case scheduled for November 10, 2020 in Milwaukee, Wisconsin, 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

¹ On September 3, 2020, a member of my staff contacted Respondent's counsel, who indicated no objection to the request.