

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 10 November 2010

Case No.: 2010-SOX-00002

In the Matter of:

LeFLORIS LYON

Complainant

v.

**CANADIAN NATIONAL RAILROAD COMPANY,
ILLINOIS CENTRAL RAILROAD COMPANY,
WISE, CARTER, CHILD & CARAWAY, P.A.,
CONSTANCE VALKAN, LAIRD J. PITZ, MICHAEL T. NOVAK,
CHARLES H. RUSSELL, III, and GEORGE H. RITTER**
Respondents

ORDER OF DISMISSAL

This matter arises out of a retaliation complaint filed pursuant to the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514(A) (“SOX”). Governing regulations are at 29 C.F.R. Part 1980.

Under 29 C.F.R. § 1980.110(a), the Administrative Review Board has been delegated to act for the Secretary and issue final decisions. When the Secretary has not issued a final decision within 180 days of the filing of the original complaint and the delay is not due to the bad faith of the employee, the employee is authorized to file an action for *de novo* review in the appropriate United States District Court. 18 U.S.C. § 1514A(b)(1)(B).

On October 14, 2010, Claimant requested permission to file a notice of removal to federal court because he wishes to exercise his right to a jury trial. By order dated October 15, 2010, I held this matter in abeyance pending such a filing, and directed Complainant to provide a copy of the complaint as evidence that the matter has been accepted by the appropriate court. Claimant filed a complaint with the United States District Court for the Eastern District of Pennsylvania on November 5, 2010 and has forwarded a copy to this office.

The filing of an action in United States District Court deprives the Office of Administrative Law Judges of jurisdiction. See Stone v. Duke Energy Corp., 432 F.3d 320 (5th Cir. 2005; see also Kelly v. Sonic Automotive, Inc., ARB No. 08-027 (Dec. 17, 2008). I therefore order the instant matter DISMISSED.

SO ORDERED.

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THERESA C. TIMLIN
Administrative Law Judge

Cherry Hill, New Jersey