



IN THE MATTER OF:

ROBERT MITCHELL,

ARB CASE NO. 2020-0040

COMPLAINANT,

ALJ CASE NO. 2019-FRS-00101

v.

DATE: May 13, 2021

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK

RESPONDENT.

Before: James D. McGinley, *Chief Administrative Appeals Judge*, and
Thomas H. Burrell, *Administrative Appeals Judge*

ORDER DISMISSING COMPLAINT

PER CURIAM. This case arises under the whistleblower protection provisions of the Federal Railroad Safety Act of 1982 (FRSA).¹ On March 18, 2020, the Administrative Review Board (Board) issued a Notice of Appeal and Order Establishing Briefing of the Administrative Law Judge Lystra A. Harris' Decision and Order of Dismissal issued March 3, 2020.

On April 10, 2020, Complainant filed a Notice with the Board indicating that on March 6, 2020, he had filed an original action pursuant to 49 U.S.C. § 20109(d)(3), with the United States District Court for the Eastern District of Pennsylvania, seeking review.

Since Complainant has chosen to proceed in district court, the Department of Labor no longer has jurisdiction over his case. As the statute provides, the "district

¹ 49 U.S.C. § 20109 (2008), as implemented by 29 C.F.R. Part 1982 (2020) and 29 C.F.R. Part 18, Subpart A (2020).

court of the United States . . . shall have jurisdiction over such an action.”² We therefore **DISMISS** this case on the ground that Complainant has removed it to district court.

SO ORDERED.

² 49 U.S.C. § 20109(d)(3).