



Issue Date: 22 December 2010

CASE NO. 2009-FRS-00003

In the Matter of

NICOLE ANDERSON,

Complainant,

v.

AMTRAK,

Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This matter arises under the employee protection provisions of the Federal Railroad Safety Act, 49 U.S.C. § 20109, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, §1521.¹

After a hearing on June 16 and 17, 2009, I issued a Decision and Order on August 26, 2010, finding Amtrak liable and assessing damages. Amtrak moved for reconsideration. It also filed a Petition for Review with the Administrative Review Board. The Board issued an order holding the petition in abeyance pending my decision on reconsideration. The Board's order provided that, if Amtrak wished to pursue its petition after a decision on reconsideration, it must notify the Board within ten days after the order on reconsideration issued.

I denied reconsideration on October 21, 2010. Amtrak renewed its petition for review with the Board, although a dispute has arisen before the Board whether Amtrak did so timely. The petition for review remains pending before the Board.

On December 20, 2010, the parties submitted to this Office a proposed settlement agreement. The applicable interim final regulations empower an administrative law judge to approve a settlement with a petition for review pending, until the Board rules on the petition. *See* 29 C.F.R. § 1982.111(d). Once approved, a settlement agreement constitutes the final order of the Secretary and may be enforced as such. 29 C.F.R. § 1982.111(e).

¹ The interim final regulations can be found at 29 C.F.R. § 1982. *See* 75 Fed. Reg. 53,522 (Aug. 31, 2010) (interim final regulations are effective August 31, 2010).

I have reviewed the terms of the parties' proposed Agreement and find the Agreement fair, adequate, and voluntary. Accordingly,

The Settlement Agreement is APPROVED, the parties will comply with its provisions forthwith, and the Complaint is DISMISSED.

SO ORDERED.

A

STEVEN B. BERLIN
Administrative Law Judge