



**Issue Date: 15 January 2009**

Case No.: 2009-FRS-00002

In the matter of

RICHARD A. CLINE,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Respondent.

**DECISION AND ORDER GRANTING COMPLAINANT'S  
MOTION TO WITHDRAW OBJECTIONS AND REQUEST FOR HEARING**

This matter arises out of a claim filed by the Complainant under the employee protection provisions of the Federal Rail Safety Act (FRSA), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53. The complaint alleged that the Complainant was discharged in retaliation for reporting an on the job injury. The Occupational Safety and Health Administration (OSHA), as the agent of the Secretary of Labor, investigated the complaint and reported its findings on October 6, 2008. Those findings dismissed the complaint. On October 29, 2008 the Complainant appealed those findings to the Office of Administrative Law Judges (OALJ).

On January 8, 2009, counsel for the Complainant filed a Motion to Withdraw Objections and Request for Hearing. The motion stated that since filing the complaint the Complainant has been declared disabled from his job by the Railroad Retirement Board. He therefore cannot be reinstated to his former job with the Respondent. Because the requested remedies of reinstatement and back pay are mooted, the Complainant has moved to withdraw his Objections and Request for Hearing.

In making the motion, counsel for the Complainant reiterated the view that the Complainant was wrongfully terminated. The motion was made, and is granted, solely on the grounds of the mootness of the potential remedies. No determination on the merits of the complaint has been made and none should be inferred from this ruling.

**ORDER**

The Complainant's Motion to Withdraw is **GRANTED** and the complaint is **DISMISSED**.

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KENNETH A. KRANTZ  
Administrative Law Judge

KAK/mrc