



**Issue Date: 12 August 2010**

**CASE NO.: 2010-FRS-00006**

**IN THE MATTER OF**

**REGGIE HERRING**  
**Complainant**

**KANSAS CITY SOUTHERN RAILWAY**  
**Respondent**

**DECISION AND ORDER APPROVING WITHDRAWAL OF COMPLAINT**

This proceeding arises from a complaint of discrimination filed under the Federal Rail Safety Act, 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53, 121 Stat 266 (Aug. 3, 2007). Currently this proceeding is set for hearing before the undersigned administrative law judge for hearing pursuant to 29 C.F. R. § 1979.107 (a).

On August 3, 2010, Counsel for Complainant notified the undersigned that the Labor Board had issued a decision on Complainant's union grievance concerning his termination of employment from Respondent. According to Complainant the Labor Board had ordered his reinstatement and thus he wished to withdraw the instant complaint which also dealt with his termination by Respondent.

Having considered Complainant's request and noting that the Labor Board's decision resolves the primary issue at hand, namely Complainant's termination, I hereby approve pursuant to 29 C.F.R. § 1979.111 (c) Complainant's withdrawal of the instant complaint.

**IT IS HEREBY FURTHER ORDERED** that the hearing in this matter which was scheduled to be heard on **August 17, 2010 at 9:00 a.m.**, in **Shreveport, Louisiana** is hereby **CANCELLED**.

**A**

**CLEMENT J. KENNINGTON**  
**Administrative Law Judge**

**NOTICE OF REVIEW:** Review of this Decision and Order is by the Administrative Review Board pursuant to ¶ 5.c.15. of Secretary's Order, 75 Fed. Reg. 3924 (Jan. 25, 2010) (effective Jan. 15, 2010). Regulations, however, have not yet been promulgated by the Department of Labor detailing the process for review by the Administrative Review Board of decisions by Administrative Law Judges under the employee protection provision of the Federal Railroad Safety Act. Accordingly, this Decision and Order and the administrative file in this matter will be forwarded for review by the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Ave, NW, Washington DC 20210. *See generally* 5 U.S.C. § 557(b). However, since procedural regulations have not yet been promulgated, it is suggested that any party wishing to appeal this Decision and Order should also formally submit a Petition for Review with the Administrative Review Board.