



ISSUE DATE: 07 SEPTEMBER 2011

CASE No.: 2011-FRS-00018

JERRI BOON,
Complainant,

v.

UNION PACIFIC RAILROAD CO.,
Respondent.

Order Administratively Closing the Case

On June 11, 2011, I issued an order to as to whether the Complainant is requesting a hearing and, if so as to which claims.

On June 30, 2011, I issued an order giving the Complainant sixty (60) days to retain counsel to represent her in this matter and required the Complainant herself must file a statement that explains whether she wants a hearing under either act if she was unable to retain counsel. I further stated that should the Complainant or her counsel fail to respond within sixty (60) days, her May 22, 2011 facsimile to the Office of Administrative Law Judges then will not be construed as a request for hearing. It will be regarded as an acquiescence to the dismissal dated April 14, 2011, which will become the Secretary of Labor's final decision on her SOX claim.¹

I further stated that because it is not clear that any complaint was made under the Railway Safety Act, should the Complainant not respond to this order within sixty (60) days, the case may be administratively closed, with no determination on the merits, on the ground that there was no claim for the Secretary to determine.

Neither the Complainant nor the Respondent has responded to my order of June 30, 2011.

Accordingly, I hereby find that the Complainant's May 22, 2011 facsimile to the Office of Administrative Law Judges then will not be construed as a request for hearing. It will be regarded as an acquiescence to the dismissal dated April 14, 2011, which will become the Secretary of Labor's final decision on her SOX claim. I further find

¹ 29 C.F.R. § 1980.111(b).

that it is not clear that any complaint was made by the Complainant under the Railway Safety Act and that this case is hereby administratively closed, with no determination on the merits, on the ground that there was no claim for the Secretary to determine.

So Ordered.

A

William Dorsey
ADMINISTRATIVE LAW JUDGE

San Francisco, California

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210. In addition to filing your Petition for Review with the Board at the foregoing address, an electronic copy of the Petition may be filed by e-mail with the Board, to the attention of the Clerk of the Board, at the following e-mail address: ARB-Correspondence@dol.gov.

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1982.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. *See* 29 C.F.R. § 1982.110(a).

You must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board: (1) an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include: (1) an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies, unless the responding party expressly stipulates in writing to the adequacy of the appendix submitted by the petitioning party.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board.

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1982.110(a).

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1982.109(e) and 1982.110(a). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1982.110(a) and (b).