



Issue Date: 08 September 2011

CASE NO. 2011-FRS-00029

In the Matter of:

ANDREW J. TAHY,
Complainant

V.

UNION PACIFIC RAILROAD COMPANY,
Respondent

**ORDER APPROVING COMPLAINANT'S REQUEST FOR WITHDRAWAL
OF HIS FRS COMPLAINT, DISMISSAL AND ORDER CANCELLING HEARING**

This case arose when the complainant, Andrew J. Tahy ("Complainant"), filed a complaint under the employee protection provisions of the Federal Rail Safety Act ("FRS"), 49 U.S.C.A. § 20109. On June 23, 2011 the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration, (Secretary) issued Secretary's Findings containing specific factual findings and legal conclusions which resulted in the dismissal of the complaint in this case (the "Secretary's Findings"). On July 29, 2011, Complainant objected to the Secretary's Findings and requested a hearing before this Office. Trial is currently set for November 8, 2011 in San Francisco, CA.

On August 29, 2011, Respondent filed its Motion for Summary Decision alleging the Complainant had failed to allege any discriminatory action was taken against him and that he has suffered no damages under FRS and has no cause of action under that statute. On September 7, 2011, Complainant submitted a Request for Withdrawal of Complaint and to Vacate Hearing. He further advised he would not file an opposition to Respondent's Motion for Summary Decision.

The Complainant's request for withdrawal of his complaint is **GRANTED** and this matter is hereby **DISMISSED** with prejudice.

IT IS FURTHER ORDERED that the trial set in this case for November 8, 2011 in San Francisco, is **VACATED**.

A

Russell Pulver
Administrative Law Judge

San Francisco, California