



Issue Date: 09 June 2014

Case No.: 2012-FRS-49

FRSA Case No.: 6-2450-11-013

In the Matter of:

**RICHARD LYNCH,
Complainant**

v.

**UNION PACIFIC RAILROAD CO.,
Employer**

ORDER OF DISMISSAL

This case comes under the Federal Rail Safety Act (FRSA),¹ as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007.² The Secretary of Labor is empowered to investigate and determine “whistleblower” complaints filed by employees who are allegedly discharged or otherwise discriminated against by Employers for taking any action relating to the fulfillment of safety or other requirements established by the above Act. On 10 Dec 10, Complainant filed his initial complaint with the Occupational Health and Safety Administration (OSHA). Eventually, OSHA issued a decision dismissing the complaint on substantive grounds on 21 Jun 12. Timely objections were filed and the case was referred to OALJ. A hearing was held on 9 Jan 13. The parties agreed on a briefing schedule that ultimately ended with the submission of Respondent’s Answer Brief on 10 May 13. Rather than submit a reply brief, Complainant filed on 24 May 13 notice of his intention to file the case anew in federal district court.

¹ 49 U.S.C. § 20109.

² Pub. L. No. 110-53 (Aug. 3, 2007).

I then suspended the administrative litigation, pending Complainant's filing in federal district court. On 4 Jun 14, the district court denied Respondent's motion to dismiss the complaint, accepting the case for adjudication on the merits. Accordingly, I dismiss the case before me for lack of jurisdiction.

SO ORDERED.

PATRICK M. ROSENOW
Administrative Law Judge