

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 31 July 2014

OALJ Case No.: 2013-FRS-00080
OSHA Case No. 5-2700-12-042

In the Matter of:

ADAM RIDDERBOS,
Complainant,

v.

GRAND TRUNK WESTERN,
Respondent.

ORDER OF DISMISSAL

This proceeding arises under the Federal Railroad Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-053, and the applicable regulations issued thereunder at 29 C.F.R. Part 1982. On June 17, 2014 (via fax) and June 24, 2014 (hard copy), I received a Notice of Voluntary Dismissal with Prejudice from Complainant, which I consider a Motion for Voluntary Dismissal With Prejudice that is consistent with 29 C.F.R. § 1982.111(c).

On June 27, 2014, my law clerk contacted counsel for Respondent to ask about Respondent’s position on the dismissal request. By email later that day, Respondent’s counsel agreed that the matter should be dismissed and should not proceed on the merits, but requested a conference call to discuss “the procedure for and propriety of an award of costs and sanctions against Complainant.” Counsel for Complainant indicated by email that day that he was disputing Respondent’s position.

By order of July 2, 2014, I cancelled the then-pending hearing and stated that I declined to rule on the dismissal request. I then held a conference call with counsel for both parties on July 18, 2014, during which we discussed possible procedures to address Respondent’s position that costs and sanctions should be imposed on Complainant. During that call, I gave Respondent fifteen days to brief the issue of whether I had any authority other than that provided by 29 C.F.R. § 1982.109(d), which allows an ALJ to order that a Complainant pay a reasonable attorney’s fee not to exceed \$1,000.00 if “the ALJ determines that a complaint ... was frivolous or brought in bad faith,” impose costs and sanctions on Complainant.

On July 28, 2014, counsel for Respondent informed my law clerk via email that Respondent appreciated the opportunity to brief the issue outlined above, that it withdraws its objection to the Notice of Voluntary Dismissal With Prejudice, and that it agrees that an Order should be entered dismissing the complaint with prejudice.

Accordingly, good cause appearing, Complainant's Motion for Voluntary Dismissal With Prejudice is GRANTED. Case No. 2013-FRS-00080 is hereby DISMISSED WITH PREJUDICE. All pending dates are vacated. Each party shall bear his or its own attorney's fees and costs.

SO ORDERED.

PAUL R. ALMANZA
Administrative Law Judge

Washington, D.C.