



In the Matter of:

KENNETH DAVIES,

ARB CASE NO. 10-109

COMPLAINANT,

ALJ CASE NO. 2010-FRS-007

v.

DATE: July 21, 2010

FLORIDA EAST COAST RAILWAY, L.L.C.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER OF CASE CLOSING

On June 3, 2010, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order Granting on Reconsideration Respondent's Motion for Summary Decision and Dismissing the Complaint (R. D. & O) in this case arising under the employee protection provisions of the Federal Rail Safety Act (FRSA).¹ The Department of Labor has not yet enacted regulations governing the procedures to be followed to obtain Administrative Review Board review of recommended decision and orders under the FRSA. Consequently, the ALJ referred the case to the Board for possible review.

In response, the Board issued an Order dated June 16, 2010, notifying the parties that if a party wished the Board to review the ALJ's R. D. & O., the party must file a petition for review with the Board no later than ten (10) business days from the date of the Order, requesting the Board to review the R. D. & O. The Order stated that the petition for review must specifically identify the findings, conclusions, or orders to which

¹ 49 U.S.C.A. § 20109 (West Supp. 2010), as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53.

the party objected and that the Board will ordinarily consider any objection not specifically listed as waived by the party.

The Order cautioned the parties, “[i]f the Board does not receive any petitions for review within the ten (10) day period, the Board will issue an order closing the case, and the ALJ’s D. & O. will become the Secretary of Labor’s final order.” The Board has not received any petitions for review in response to our June 16th Order. Accordingly, we **CLOSE** this case and the ALJ’s June 3, 2010 R. D. & O. is the Secretary of Labor’s final order.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel