



In the Matter of:

NICOLE ANDERSON,

ARB CASE NO. 10-142

COMPLAINANT,

ALJ CASE NO. 2009-FRS-003

v.

DATE: January 14, 2011

AMTRAK,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

NOTICE OF CASE CLOSING

On June 7, 2010, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order (D. & O) in this case arising under the employee protection provisions of the Federal Rail Safety Act (FRSA).¹ On September 10, 2010, Amtrak filed a Request for Reconsideration of Decision and Order with the ALJ. The same day, it sent a Petition for Review and Order to the Administrative Review Board.

The Secretary of Labor has delegated her authority to issue final agency decisions on cases on appeal under the FRSA to the ARB.² But because Amtrak had filed a request for reconsideration of the ALJ's D. & O., on which the ALJ had not acted before Amtrak

¹ 49 U.S.C.A. § 20109 (West Supp. 2009), 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.

² Secretary's Order No. 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924, § 5(b)(15) (Jan. 15, 2010).

filed its petition for review, the ALJ's decision was not ripe for appeal. Accordingly, we issued an order holding the Petition for Review in abeyance pending the ALJ's resolution of the request for reconsideration.

The Order notified the parties that if, after the ALJ issued the decision on reconsideration, Amtrak wished to proceed with an appeal in this case, it should so notify the Board and the Complainant within ten (10) business days of the date on which the ALJ issued the order on reconsideration, and the Board would determine whether to accept the appeal, and if it was accepted, would issue a notice of intent to review and briefing schedule.

The ALJ issued an Order Denying Reconsideration on October 21, 2010. Amtrak filed a renewed Petition for Review with the ARB on November 17, 2010. Anderson filed an Objection to the renewed petition on the grounds that Amtrak failed to timely file it.

Before the Board decided whether to accept Amtrak's appeal, the parties entered into a settlement agreement and submitted it to the ALJ for his approval. On December 22, 2010, the ALJ entered a Decision and Order Approving Settlement, citing 29 C.F.R. § 1982.111(d).³ Pursuant to the settlement, the ALJ dismissed Anderson's complaint. Accordingly, the case pending before the Board is **CLOSED**.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to the Board's legal assistant, Juanetta Walker. Telephone: (202) 693-6200 Facsimile: (202) 693-6220

³ The FRSA's interim final regulations are found at 29 C.F.R. Part 1982. 75 Fed. Reg. 53,522 (Aug. 31, 2010).