



In the Matter of:

ANTHONY SANTIAGO,
COMPLAINANT,

v.

**METRO-NORTH COMMUTER
RAILROAD COMPANY, INC.,**

RESPONDENT.

ARB CASE NO. 13-062

ALJ CASE NO. 2009-FRS-011

DATE: JUN 18 2018

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Charles C. Goetsch, Esq.; Cahill, Goetsch & Perry PC; New Haven, Connecticut

For the Respondent:

Beck S. Fineman, Esq.; Ryan, Ryan, Deluca, LLP; Stamford, Connecticut

ORDER OF DISMISSAL

Anthony Santiago complained that his employer, Metro-North Commuter Railroad Co., Inc., violated the employee protection provisions of the Federal Rail Safety Act of 1982,¹ when it reclassified his back injury as non-occupational and ceased paying for medical treatment. A Department of Labor (DOL) Administrative Law Judge (ALJ) dismissed his complaint after a hearing. Santiago appealed to the Administrative Review Board, which reversed, in part, and remanded the case for further proceedings.

On remand, the ALJ found that Metro-North's reclassification interfered with Santiago's medical treatment under 49 U.S.C.A. § 20109(c)(1), and concluded that Metro-North did not prove its affirmative defense that the reclassification would have been the same "without the railroad carrier's interference."² The ALJ awarded compensatory and punitive damages and

¹ 49 U.S.C.A. § 20109 (Thomson/West 2018) (FRSA).

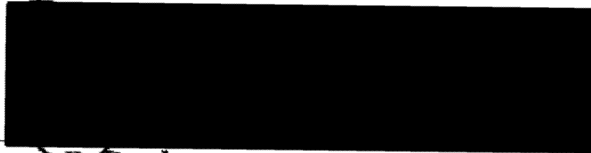
² *Santiago v. Metro-North Commuter RR Co.*, ARB No. 10-147, ALJ No. 2009-FRS-011 (ARB July 25, 2012).

Metro-North appealed.³ The Board summarily affirmed the ALJ's decision on remand and Metro-North appealed to the U.S. Court of Appeals for the Second Circuit.⁴

The court determined that the ALJ lacked substantial evidence to support her conclusion that Metro-North interfered with Santiago's medical treatment when it reclassified his back injury as non-work related. The court concluded that there was no evidence in the record to "overwhelm" the independent judgments of experienced medical professionals that Santiago's work injury had resolved.

Accordingly, consistent with the Second Circuit's opinion, the ARB vacates its Final Decision and Order of June 12, 2015, and dismisses Santiago's complaint.

FOR THE ADMINISTRATIVE REVIEW BOARD:



Janel R. Dunlop
General Counsel

**NOTE: Questions regarding any case pending before the Board should be directed to
the Board's Paralegal Specialists: Telephone: (202) 693-6200
Facsimile: (202) 693-6220**

³ *Santiago v. Metro-North Commuter RR Co.*, ALJ No. 2009-FRS-011 (July 16, 2013).

⁴ *Santiago v. Metro-North Commuter RR Co.*, ARB No. 13-062, ALJ No. 2009-FRS-011 (ARB June 12, 2015).