

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



In the Matter of:

CHARLES MACK,

ARB CASE NO. 2022-0055

COMPLAINANT,

ALJ CASE NO. 2017-FRS-00096

v.

DATE: October 11, 2022

**UNION PACIFIC RAILROAD
COMPANY,**

RESPONDENT.

Appearances:

For the Complainant:

**George A. Thornton, Esq.; *Thornton Mostul Fuller, PLLC*; Seattle,
Washington**

For the Respondent:

**Reha Dallon, Esq. and Sierra Poulson, Esq.; *Union Pacific Railroad
Company*; Omaha, Nebraska**

Before GODEK and PUST, Administrative Appeals Judges

ORDER OF DISMISSAL

PER CURIAM:

This case arises under the employee protection provisions of the Federal Railroad Safety Act of 1982 (FRSA).¹ On August 1, 2022, Complainant filed a Petition for Review with the Administrative Review Board (Board). Complainant

¹ 49 U.S.C. § 20109, as implemented by 29 C.F.R. Part 1982 (2021) and 29 C.F.R. Part 18 (2021), Subpart A.

requested review of the Decision and Order issued July 19, 2022, by a United States Department of Labor Administrative Law Judge.

On September 30, 2022, Complainant filed a Notice with the Board indicating that he had filed an original action with the United States District Court for the Central District of California pursuant to 49 U.S.C. § 20109(d)(3), seeking de novo review. Complainant also filed a file-stamped copy of his district court complaint, dated September 30, 2022, with his Notice to the Board.

Since Complainant has chosen to proceed in district court, the Department of Labor no longer has jurisdiction over his case.² Accordingly, we **DISMISS** this appeal.

SO ORDERED.



STEPHEN M. GODEK
Administrative Appeals Judge



TAMMY L. PUST
Administrative Appeals Judge

² See 49 U.S.C. § 20109(d)(3) (“[I]f the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action”); *see also* 29 C.F.R. § 1982.114(a).