

SERVICE DATE – APRIL 10, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36629

RAIL LINK, INC.—
PETITION FOR DECLARATORY ORDER

Decided: April 10, 2025

On August 4, 2022, Rail Link, Inc. (Rail Link), filed a petition for declaratory order requesting that the Board institute a proceeding and establish a procedural schedule to address whether Rail Link is a common carrier subject to the Board's jurisdiction. That question was referred to the Board by the District Court of Harris County, Tex. (District Court), in a case where a Rail Link employee, Demaree Reed, has asserted a personal injury claim against Rail Link under the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60 (FELA).

By order dated September 19, 2022, the Board instituted this proceeding and established a procedural schedule to address whether Rail Link is a common carrier subject to the Board's jurisdiction. In accordance with the procedural schedule, Rail Link filed its opening statement on October 11, 2022. On October 26, 2022, Reed filed a motion to stay and hold this proceeding in abeyance pending the resolution of his petition for writ of mandamus in the Court of Appeals for the First District of Texas in Houston (Court of Appeals) challenging the District Court's referral of this matter to the Board. By order dated October 28, 2022, the Board directed Rail Link to reply to Reed's motion and held this proceeding in abeyance to allow the Board to consider the arguments presented. In a November 14, 2022 reply, Rail Link argued that the Board should either dismiss Reed's motion as an untimely collateral attack on the Board's September 19, 2022 decision or deny the motion.

By order dated February 21, 2025, the Board directed Reed to provide an update on the status of his petition for writ of mandamus in the Court of Appeals. The Board instructed Reed to address whether his October 2022 motion was mooted by the court's denial of his petition for writ of mandamus and whether the Board should remove this proceeding from abeyance.

On March 13, 2025, Reed filed a status update and motion to continue abeyance stating that the Court of Appeals had denied his petition and his subsequent request for rehearing, but that he had filed a petition for writ of mandamus in the Supreme Court of Texas (Supreme Court) on February 14, 2025. (Status Update 1-2.) Simultaneously with his petition in the Supreme Court, Reed filed a motion to temporarily abate the Supreme Court proceeding under a procedural rule allowing a new District Court judge to reconsider the original referral decision. (*Id.* at 2-3 (noting that the original District Court judge was replaced on January 1, 2025).) On March 7, 2025, the Supreme Court granted Reed's motion for temporary abatement and abated

the proceeding for 30 days to allow the successor District Court judge to reconsider the original judge's decision. (*Id.* at 3, Ex. 4.) The Supreme Court also ordered the parties to file either a status report or a motion to dismiss by April 7, 2025. (*Id.*, Ex. 4.) According to Rail Link, Reed filed a motion for reconsideration in the District Court on March 17, 2025, and the District Court scheduled a hearing for April 1, 2025. (Rail Link Reply 3.)

Reed argues that the Board should continue its abeyance of this proceeding to allow the state court proceedings to resolve. (Status Update 4.) Reed asserts that abeyance is appropriate because the District Court will likely withdraw the original referral order and, if not, the Supreme Court will lift its abatement and order the District Court to withdraw the referral order. (Status Update 4.) Reed also argues that abeyance is necessary to avoid irreparable harm he would suffer from "an improper adjudicatory proceeding," will benefit Rail Link by preserving its resources, and "will promote federalism, the separation of powers, and comity." (*Id.*)

In a March 26, 2025 reply, Rail Link asserts that the Board should reinstitute the procedural schedule and order Reed to expeditiously submit a reply to Rail Link's opening statement. (Rail Link Reply 3.) Rail Link argues that the current period of abeyance has been sufficient and has allowed Reed to "fruitlessly pursue[] a writ of mandamus." (*Id.*) However, Rail Link notes that the Board may want to continue the abeyance until after the District Court hearing but argues that the Board should immediately lift the abeyance if the District Court proceedings do not result in reconsideration and withdrawal of the original referral order. (*Id.*)

This proceeding will remain in abeyance pending further order of the Board. Abeyance is appropriate where it would promote efficiency and not be fundamentally unfair to any party. See, e.g., *N. Am. Freight Car Ass'n v. Union Pac. R.R.*, NOR 42144 et al., slip op. at 3 (STB served Mar. 31, 2017). Here, abeyance would promote efficiency by avoiding the potential duplication of efforts by the Board and the state courts. See *Ballard Terminal R.R.—Pet. for Declaratory Ord.*, FD 36261, slip op. at 5 (STB served June 27, 2019). Abeyance would not be fundamentally unfair to any party because completion of the state court proceedings could resolve the referral issue in a way that obviates the need for a declaratory order from the Board. To ensure that the Board remains informed regarding the progress of any state court action, the parties will be directed to notify the Board upon final resolution of the referral issue in state court and include a copy of any relevant court decision(s).

It is ordered:

1. The declaratory order proceeding remains held in abeyance until further order of the Board.
2. The parties are directed to notify the Board upon final resolution of the referral issue in state court and include a copy of any relevant court decision(s).
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.