

TCU Member Receives Historic Settlement from Amtrak

TCU member Nicole Anderson has been awarded substantial damages by a Department of Labor Administrative Law judge, who found that Amtrak retaliated against her after she filed an injury report.

Ms. Anderson, who works as a coach cleaner in Seattle, was fired by Amtrak in 2007 after she filed an injury report describing how she sprained her ankle while working. (Amtrak subsequently reduced the dis-

missal to a thirty-day suspension.)

In a decision that is considered the first under the 2007 amendment to the Federal Rail Safety Act (FRSA), the judge awarded Anderson: \$2,666.67 in back pay; \$60,000 in compensatory damages; \$100,000 in punitive damages and attorney's fees and costs.

The FRSA prohibits a railroad carrier's dismissal or suspension of an employee if it is "due, in whole or in part,"

to the employee's lawful, good-faith notice to the carrier of a work-related personal injury, or filing a whistleblower complaint related to railroad safety. The judge found that Anderson was disciplined partially in retaliation for reporting the injury to Amtrak.

In the explanation of the \$100,000 punitive damage award, the judge wrote, "Amtrak's conduct reflects a degree of conscious disregard for how its practices obstruct Congress' mandate in the Federal Rail Safety Act. Punitive damages are appropriate to correct and deter this conduct."

In addition to the monetary awards, Amtrak was ordered to completely expunge any negative references or discipline from Anderson's record stemming from the ankle sprain incident.

Better Enforcement

"This case highlights the critical importance of winning presidential elections," commented TCU

Jim Levitt Photography



TCU member Nicole Anderson of Seattle, WA, won an historic award when Amtrak unjustly retaliated against her after she filed an injury report. The award sets important precedents that safeguard other workers under the Federal Rail Safety Act.

International President Bob Scardelletti. "For years, the Department of Labor, OSHA and the Federal Railroad Administration were hamstrung in carrying out their safety oversight functions by the Bush Administration, who packed the top of those agencies with pro-company, anti-worker appointees.

"President Obama has done just the opposite. As a result, we're beginning to get the aggressive attention to safety that our members need and deserve," said Scardelletti.

"Thanks to the Obama Administration, federal enforcement agencies are finally using the Federal Rail Safety Act to go after carriers for intimidation and harassment of injured employees," said TCU Vice-President and Carmen Division President Rich Johnson. "Under the Bush Administration, those agencies looked the other way. This will be a huge reality check for the carriers."

Anderson was assisted in her fight for justice by TCU Carmen Local Chairman Ed Holm and local committeeman Philippe Brunelle.

In addition to appealing Anderson's dismissal through the normal agreement channels, the local union representatives contacted the Occupational Safety and Health Administration (OSHA), which is charged

New OSHA Whistleblower Protection for Rail Workers

On the heels of the Anderson settlement, new procedures from the Department of Labor's Occupational Safety and Health Administration (OSHA) will provide better protections for workers who voice safety, health and security concerns.

"Workers have the right to, and should be

protected, when they point out any health or safety concerns. TCU is pleased that these new procedures are in place," said TCU President Bob Scardelletti.

"This is another example of what your vote can accomplish by electing those who want to protect the rights of working men and women."

with enforcing the provisions of the Rail Safety Act. They were told to have Anderson file a written complaint with the Department of Labor, which she did.

OSHA investigated the complaint and found reasonable cause to believe that Amtrak had violated the Act. Amtrak appealed. This decision by the Department of Labor was in response to that appeal.

Scathing Indictment

In a scathing indictment of practices that exist on many carriers, not just Amtrak, the judge wrote, "Amtrak policies and practices have created an environment that tends to motivate managers . . . to discourage employees' reports of injury. Amtrak policy is to deny pay

raises to managers whose workers have accidents beyond a certain frequency.

"Amtrak engaged in a number of these [prohibited] practices, including discouraging Complainant from filing an injury report, attempting to influence her medical care, tying supervisor compensation with reportable injury statistics, and blaming workers without looking at the underlying causes of the particular, individual injury," the judge continued.

"I commend the local chairman and committeeman, as well as Ms. Anderson, for their perseverance," said Scardelletti. "They did not just rely on the company discipline process, but made sure that the relevant federal protection was brought into play."