

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

THE SPRINGFIELD TERMINAL)	
RAILWAY COMPANY,)	
)	
Plaintiff,)	
)	Docket no. 07-cv-52-GZS
v.)	
)	
FORE RIVER WAREHOUSING &)	
STORAGE CO., INC.,)	
)	

Defendant.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Before the Court is Plaintiff's Third Motion to Stay (Docket # 18) as well as Defendant's Motion to Dismiss (Docket # 20), which Defendant filed in opposition to Plaintiff's request to further enlarge the stay. This matter has been stayed since September 6, 2007. On March 13, 2008, the Court extended the stay until June 6, 2008 but indicated that "there will be no further extensions." (Endorsement Order (Docket # 16).) Plaintiff's Reply now acknowledges that "if this matter is to proceed, it must proceed before the Surface Transportation Board ("STB") and not this Court." (Pl.'s Reply (Docket # 22) at 1.) In light of this acknowledgement as well as Plaintiff's failure to follow the Court's orders and bring this matter before the STB prior to June 26, 2008, the Court believes that the proper course is to dismiss this case pursuant to Rule 41(b). The Court does find good cause to make its dismissal WITHOUT PREJUDICE to Plaintiff pursuing whatever remedies (if any) may still be available to it from the STB. Therefore, the Court DENIES Plaintiff's Third Motion to Stay (Docket # 18) and

GRANTS Defendant's Motion to Dismiss. In accordance with these rulings, this case is hereby DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 16th day of July, 2008

Plaintiff

**SPRINGFIELD TERMINAL
RAILWAY CO**

represented by **MICHAEL I MONTEMBEAU
SMITH, ELLIOTT, SMITH &
GARMEY, P.A.**
199 MAIN STREET
PO BOX 1179
SACO, ME 04072
(207)282-1527
Email: mmontembeau@sesg.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

KEITH JACQUES
SMITH, ELLIOTT, SMITH &
GARMEY, P.A.
PO BOX 442
PORTLAND, ME 04112
(207)282-1527
Email: kjacques@sesg.com
ATTORNEY TO BE NOTICED

V.

Defendant

**FORE RIVER
WAREHOUSING & STORAGE
CO INC**

represented by **DANIEL L. ROSENTHAL**
VERRILL & DANA
1 PORTLAND SQUARE
P.O. BOX 586
PORTLAND, ME 04112-0586
(207) 774-4000
Email:
drosenthal@verrilldana.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

