

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12911
Docket No. 12780
95-2-93-2-126

The Second Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers
(
(CSX Transportation, Inc. (former
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"1. The CSX Transportation, Inc. unreasonably denied the Claimant the proportional amount of \$2000 as stipulated in the November 27, 1991 Agreement.

2. That accordingly the CSX Transportation, Inc. be required to pay Mr. Stratton the proportional amount of \$2000 that is duly and rightfully due him."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On July 20, 1989, Claimant suffered an on-the-job injury. He never performed service for the Carrier after that date.

The November 27, 1991 National Agreement provided for a \$2000 payment to those employees who qualified for a vacation in 1991.

This claim has no validity for two reasons. First, the Claimant did not work in 1990. Therefore, he did not qualify for a vacation in 1991. Second, the claim is moot. Claimant agreed to a settlement of his personal injury on September 27, 1991, releasing the Carrier from all claims and demands of any kind. This Board will dismiss the claim on the basis the Claimant is estopped by his September 27, 1991 settlement agreement from progressing this matter.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of August 1995.