

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

Award No. 13300  
Docket No. 13092  
98-2-95-2-117

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(International Brotherhood of Electrical Workers  
( System Council No. 16

**PARTIES TO DISPUTE:** (

(Burlington Northern Railroad

**STATEMENT OF CLAIM:**

- “1. That in violation of the governing Agreement, Rule 13, paragraphs (f) and (h) in particular, the Burlington Northern Railroad Company unjustly disqualified Mechanical Department Electrician J.I. Sterner from an Electrician Maintenance position at the Carrier's West Burlington Iowa Facility on September 19, 1994.
2. That accordingly, West Burlington, Iowa Mechanical Department Electrician J.I. Sterner be compensated \$6.00 per day in addition to his regular compensation for each day that he is withheld from his maintenance position.”

**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 were given due notice of hearing thereon.

Claimant is a Journeyman Electrician with over 15 years service at Carrier's West Burlington, Iowa locomotive facility. Claimant was awarded third trick maintenance job #533 by bulletin dated August 18, 1994, and began working this position on August 21, 1994. At the time, Claimant had never worked a maintenance position and had some medical restrictions.

Carrier disqualified Claimant from the position on September 19, 1994 because he was unable to meet the minimum requirements of the job involving basic understanding of electric parts and equipment.

The Organization contends that Claimant's Journeyman status qualifies him for this job and asserts that Carrier did not give him adequate training for the position. Carrier argues that it properly disqualified Claimant within the 30 day period set forth in Rule 13(h), and that he is not entitled to the requested \$6.00/day remedy since he was assigned to the position within ten calendar days of the award in accord with Rule 13(f). It relies on Public Law Board No. 3408, Award 70; Public Law Board No. 4584, Award 4; Second Division Awards 12223, 11521, 11441, 10431 and 7935 in arguing that the claim is without merit.

The Board has learned that since the parties have submitted this claim for consideration, Claimant has resigned from employment with Carrier, and has executed both a letter of resignation as well as a Release and Settlement Agreement. A review of these documents, which were executed by Claimant on October 31, 1997 and October 21, 1997 respectively, reveal that Claimant has relinquished any seniority he had with Carrier and released Carrier from all claims "of every kind and nature" up to the date of the release, including any claims for time lost. Under such circumstances, the Board views this case as moot and, accordingly, the claim is dismissed.

### **AWARD**

Claim dismissed.

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**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 6th day of August 1998.**