

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13418
Docket No. 13281
99-2-97-2-53

The Second Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. The National Railroad Passenger Corporation violated Rule 23 of the controlling agreement between the parties when it dismissed Carman Steven Jennings on December 4, 1995. This dismissal was arbitrary, capricious and an abuse of power.**
- 2. That the National Railroad Passenger Corporation violated the time limits under Rule 23 by not charging the claimant within the 30 days of the occurrence or when management first had knowledge of the event. That the Director of Labor Relations also violated time limits by failing to schedule a conference to discuss Mr. Jennings termination within the 30 day time limit as specified by Rule 23 of the contract.**
- 3. That the NRPC be ordered to put the Claimant S. Jennings promptly back to work with backpay, all time lost, that due to hardship NRPC placed upon him and his family, he be paid for all benefits Health and Welfare as if he was never terminated, until he is returned to work.”**

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.

The instant claim challenges Claimant's dismissal. The record discloses that Carrier also dismissed Claimant two months prior to the instant case for a similar offense. A claim was filed over the earlier dismissal and progressed to Public Law Board No. 5808. In Award 26, the Board denied the claim and upheld Claimant's dismissal.

In light of the Award from Public Law Board No. 5808, there is no relief that this Board could order, even if it agreed with the instant claim. Accordingly, the instant claim must be dismissed as moot.

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 June 1999.