

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 14187
Docket No. 14064
17-2-NRAB-00002-150043**

The Second Division consisted of the regular members and in addition Referee Joseph M. Fagnani when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen-Division of TCU/IAMAW
(BNSF Railway Company)

STATEMENT OF CLAIM:

- “1. That the BNSF Railway Company (hereinafter referred to as the Carrier) did violate the contractual rights, specifically, but not limited to, Rule 40 of the September 1, 1974 Agreement, as amended, of Argentine Yard, Kansas City, Kansas Carman James Mettler (EID# XXXXXX) (hereinafter referred to as the Claimant), when the Carrier issued the unjust and excessive discipline of dismissal for an alleged seat belt infraction.**
- 2. BNSF Railway shall be required to expunge the record of the discipline: return to service and make whole Carman James Mettler and compensate him in the amount of eight (8) hours of pay at the established Carman’s rate (\$28.63) for each day he is unjustly withheld from service; cover all lost overtime he would have worked; make whole for all benefits including health and welfare, vacation and seniority rights during the time he is out of service unjustly.”**

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 Board has been furnished a document entitled "Release and Settlement Agreement" signed by the Claimant on July 15, 2016, in connection with a monetary settlement received by the Claimant from the Carrier. In this document, the Carrier was released from "all other claims of any kind or character" including "those which may arise pursuant to a collective bargaining agreement."

The Claimant signed the release in his own signature and further attested that "I have read and fully understand this Release."

In light of the above, the Board finds that the claim now before it is covered by the terms of such release and is, therefore, moot. Accordingly, the Board is constrained to dismiss the claim without any reference to its merits. (See Second Division Award 13034 as well as Third Division Awards 23932 and 26345)

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 15th day of December 2017.