

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11909  
Docket No. 11762-I  
90-2-89-2-41

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Harry B. Seever  
(  
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

Whether or not Car man Harry B. Seever, St. Joseph, is entitled to benefits of the New York Dock Conditions as a result of his furlough from service in August 1984?

Also, I was assured by a Union Pacific Railroad representative that I would not be protected by the New York Dock Conditions, and ultimately was offered a lump-sum settlement, of which I did receive. I assumed the New York Dock Conditions would prevail.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 before this Board seeking additional benefits under the New York Dock Conditions, 350 I.C.C. 60 (1979) as a result of furlough from service in August 1984. On August 27, 1984, he received a separation allowance from Carrier in the gross amount of \$38,477.00. He accepted this payment as a:

"...full and complete release of and from any and all manner of claims and demands now or in the future (including, but not limited to the New York Dock Conditions) for any reason."

It has not been demonstrated that the settlement and release was fraudulently arrived at; that any misrepresentations occurred when the matter was being negotiated; that Claimant was incompetent or otherwise unaware of the consequences of his act; or, that any other legitimate basis exists under law to have the matter rescinded. Accordingly, Claimant must be bound by the Agreement he struck even though he now dislikes the result.


The Claim is without merit and will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1990.