

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 12199  
Docket No. 12132-I  
91-2-90-2-281

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

(Wayne W. Baikauskas  
PARTIES TO DISPUTE: (  
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"That since Jan 1990 the claimant Wayne W. Baikauskas has tried to return to his position as a car inspector on the Chtt RR Chicago Heights. The Carrier Union Pacific RR Refuses to allow the claimant back to work and is wrongly holding the claimant out of work causing severe emotional and financial damage.

The Carrier Union Pacific RR refuses to either sever or return claimant back to work. The Carrier has allowed such people as Jerry Vaul back to work after suffering a stroke. Mr. Vaul has only 5% use of his left side and is allowed to return to work, his speech is impaired and moving equipment must be stopped for him to get on and off. The carrier has allowed Mr. R. Sager back to work who has a plastic hip and only has 50% usage of his right side. The Carrier has allowed Mr. W. Swing to return to work with 2 slipped disc.

In my correspondence with the carrier they allege that I can not return to work because of low chronic back pain and a narrowing of the c6 c7 c5 disc. yet the carrier has allowed the aforementioned people to return to work with much more severe conditions that not only are a safety hazard to them but to others.

I ask that the board answer why claimant should not return to work and answer the question why claimant should not be rewarded back pay from Jan 1989 until such time that claimant has been rightfully restored to his position as car inspector on the CHTT RR" (sic)

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 employees 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.

This is the second occasion for this Board to consider a claim Petitioner has made against Carrier. In Second Division Award 12093 we dismissed Petitioner's Claim on the basis of a release he executed on December 14, 1990. That release provided:

"I release and forever discharge the Company from any and all claims, causes of actions, and liabilities of any kind or actions currently pending in any stage of appeal including those actions pending before the National Railroad Adjustment Board, arising out of my employment at, or termination of my employment from, the Company."


This resignation and release covers the dispute before this Board in this Docket. The Claim must therefore be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deger - Executive Secretary

Dated at Chicago, Illinois, this 4th day of December 1991.