

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13817
Docket No. 13714
04-2-03-2-59

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

PARTIES TO DISPUTE: (*Brotherhood of Railway Carmen*
(Delaware and Hudson Railway Company, Inc.

STATEMENT OF CLAIM: Claim of the Committee of the Union that:

"1. The Delaware and Hudson Railway Company (Division of CP Rail System) violated the terms of our current Agreement, when they failed to compensate Carman T. L. Graves for attending a deposition on Tuesday, November 12, 2002, at Binghamton, NY.

2. That, accordingly, the Delaware and Hudson Railway Company be ordered to compensate Carman T. L. Graves as follows:

1.5 hrs @ straight-time rate	\$26.26
12 miles @ .365 cents per mile	<u>4.30</u>
TOTAL	\$31.07

This is the amount he would have earned had the Carrier complied with our Agreement."

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.

This claim seeks compensation for the Claimant as a result of his attendance at a deposition on November 12, 2002 in a lawsuit filed by the Claimant against the Carrier where the Claimant sought compensation for carpal tunnel syndrome.

On June 11, 2003, the Claimant signed a Release Agreement as part of the settlement of the lawsuit which provides, in part, that he released the Carrier "... from all legal liability for personal injuries as set forth herein, including claims; causes of action; actions, . . . costs, fees and expenses incurred; and demands for monetary compensation of any nature" That release covers and bars this claim.

AWARD

Claim denied.

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 10th day of December 2004.