

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22458
Docket Number MS-22538

Paul C. Carter, Referee

(Charles Orr

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: "On December 14, 1976, I was told to pack my bags and not to come back to work by K. O. Smith, System Pail Supervisor. There was no cause or justification for said firing. Said firing was in violation of the Agreement between the Railroad and the Brotherhood. The Railroad agreed to reinstate me on a leniency basis without pay. The Brotherhood refuses to do anything further for me."

OPINION OF BOARD: The claimant contended on the property that he was dismissed from service by Carrier's Supervisor on December 14, 1976. Tha Carrier responded that claimant was not dismissed, but walked off the job of his own accord.

Claim was filed by claimant on the property for reinstatement to the service with compensation for time lost. The claim filed by claimant was denied. The claim in behalf of claimant was then progressed on the property by the General Chairman of the Brotherhood of Maintenance of Way Employees, the Organization representing the craft in which claimant had been employed.

Section 4 of the August 24, 1954, National Agreement, which was incorporated by reference in Rule 50 of the applicable collective bargaining agreement, provides:

'This Rule recognizes the right of representatives of the Organizations, parties hereto, to file and prosecute claims and grievances for and on behalf of the employees they represent."

The General Chairman is the duly accredited representative of the Organization "to file and prosecute claims and grievances."

The claim in behalf of claimant was handled by the General Chairman up to and including the highest officer of the Carrier designated to handle such claims and disputes. In conference on August 23, 1977, an agreement was reached to dispose of the claim as set forth in letter of August 31, 1977:

"CHESSIE SYSTEM

Baltimore, Maryland 21201

August 31, 1977

File: 2-E-1814

Mr. V. F. Maimone, General Chairman
Brotherhood of Maintenance-of-Way Employees
407 United Building
Akron, Ohio 44308

Dear Sir:

This refers to previous correspondence on your file: CRRG-1804, ending with our letter to you of June 29, 1977, and confirms conference held on August 23, 1977, concerning your appeal from the decision of Director. Engineering Programs Sunderland on the claim of Central Region Rail Gang employee, Charles L. Orr, that: 'he was unjustly treated by System Rail Supervisor K. O. Smith, and ... [that he] be reinstated and compensated for time lost from December 14, 1976, until restored to duty'.

When this matter was discussed in conference, it was agreed to dispose of this claim by reinstating ph. Orr to his former seniority rights on a leniency basis, without pay for time lost, with the understanding that before resuming duty, Mr. Orr must satisfactorily pass a physical examination so as to be qualified for Carrier's service by its Chief Medical Examiner and with the further understanding that no claims will be made or entertained by reason of Mr. Orr being reinstated.

If the above represents your understanding of our agreement reached in conference,, please so indicate

"in the space provided below and return two (2) signed copies of this letter for my file.

Very truly yours,

/s/ L. W. Burks

I CONCUR:

/s/ V. F. Maimone
General Chairmen

September 2, 1977
Date"

The **settlement** of the claim on the property by the General Chairmen, for the Organization, and the designated officer of the Carrier, is final and binding on all parties and leaves nothing for this Board to decide. See Awards 7061, 21011 and 22440, and First Division Award 23025. The claim will be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the **Railway Labor Act**, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **31st** day of **July 1979**.