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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25856
Docket Number MW-25820

Paul C. Carter, Referee

(Brotherhood of Maintenance of Way Employes
PARTIES TO DISPUTE: (
(The Denver & Rio Grande Western Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Claim* as presented by the General Chairman on March 7, 1983, to Division Engineer J. L. Ozment shall be allowed as presented because said claim was not disallowed by Division Engineer J. L. Ozment in accordance with Rule 29(a) (System File D-15-83/MW-4-83).

*The letter of claim will be reproduced within our initial submission."

OPINION OF BOARD: The basic issue in this docket involves the same parties, the same Claimant, and arose from the same occurrence as were involved in our Award No. 25522, issued on June 28, 1985, wherein it was held:

"Based upon the record, we consider Carrier's action in closing Claimant's record as unjustified. We will award that he be restored to service with his former seniority, provided that he can satisfactorily pass physical examination that may be required by the Carrier. We will not award any compensation for time Claimant may have lost while out of service."

Claimant's employment rights with the Carrier were adjudicated in Award No. 25522.

We do not consider it the intent of the Railway Labor Act, which has as one of its primary purposes the prompt and orderly settlement of disputes growing out of grievances or application of Agreements covering rates of pay and working conditions, that the National Railroad Adjustment Board repeatedly adjudicate the same dispute involving the same Claimant and arising out of the same occurrence. See Award No. 25262 and others cited therein, and Award Nos. 20714, 20455, 18315. As the Claim in behalf of Claimant has been adjudicated, the present dispute will be dismissed.

The Carrier is cautioned, however, that under the time limit Rules it is required to respond to Claims within the time limits specified, even though it may consider the Claims involved as barred or otherwise defective.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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

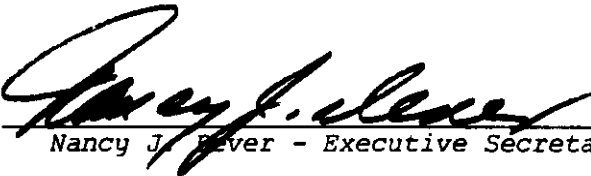
That the Agreement was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois this 30th day of January 1986.

