

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

(R. E. Hanson

PARTIES TO DISPUTE: (

(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "1. Can the BN violate rules 2A, 5, 23A, 44, 60, 40A, & 69A, & in fact the entire scope of our collective bargaining agreement without paying their 'victim' some just compensation for breach (sic) of contract, pain, suffering & humiliation?"

FINDINGS:

The Third 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 waived right of appearance at hearing thereon.

On January 17, 1985, Claimant failed to pass a rules examination. On January 21, 1985, Claimant was re-examined and he was returned to duty the following day but restricted to a laborer position. As a result Claimant was not permitted to operate a bolt machine on January 29, 1985.

Claimant contends that he was disciplined by the Carrier's restriction and that the rules examination was nothing more than a "game" that had no relevance to actual work performance.

Other than assertion, there is little evidence provided by Petitioner to support the claim before us.

Further, while Claimant submitted this matter to the Board in June, 1985, he executed a release "from all claims and liabilities of every kind and nature" in March, 1987. His subsequent action renders the present claim moot leaving this Board with no issue to decide. (Third Division Awards 27043, 26694, Second Division Award 9875.)

Form 1
Page 2

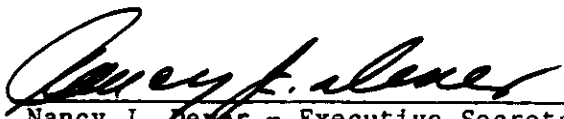
Award No. 27496
Docket No. MS-26415
88-3-85-3-327

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September 1988.