

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 32645  
Docket No. MW-32208  
98-3-94-3-638

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

**PARTIES TO DISPUTE:** ( **(Brotherhood of Maintenance of Way Employees**  
**(Consolidated Rail Corporation**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The dismissal of Welder A. L. Nixon for conduct unbecoming a Conrail employe when he procured meals from the Oregon Diner without authorization on July 30, August 15, September 8 and 9, 1993 was arbitrary, capricious and on the basis of unproven charges (System Docket MW-3136D).**
- (2) The Claimant shall be reinstated with seniority and all other rights unimpaired, his record shall be cleared of the charges leveled against him and he shall be compensated for all wage and benefit loss suffered.”**

**FINDINGS:**

**The Third 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.

The claim in this matter has been removed from our jurisdiction pursuant to a comprehensive Settlement Agreement and General Release dated April 10, 1998. Paragraph 4(c) of that document specifically provides for dismissal of this claim with prejudice.

**AWARD**

Claim dismissed.

**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 Third Division**

Dated at Chicago, Illinois, this 20th day of July 1998.