

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33571
Docket No. MW-34430
99-3-98-3-37**

The Third Division consisted of the regular members and in addition Referee Ann S. Kenis when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employes
(CSX Transportation, Inc. (former Western Maryland
(Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The thirty (30) day suspension assessed Mr. C.C. Cobey for his alleged conduct unbecoming an employe and in violation of Rule 501 when he reported an injury and allegedly left his assigned duties on January 16, 1997 was without just and sufficient cause, based on an unproven charge and in violation of the Agreement [Carrier’s File 12 (97-0360) WMR].**
- (2) As a consequence of the violation referred to in Part (1) above, Foreman C.C. Cobey shall be exonerated and made whole.”**

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 before the Board is an appeal of the 30-day suspension issued to the Claimant following an Investigation on February 4, 1997 in connection with charges of conduct unbecoming an employee and violation of Rule 501. The incident referred to in the Investigation occurred on January 16, 1997 when the Claimant allegedly asked the Train Dispatcher to report an on-the-job injury when no injury had occurred.

After careful review of the record in its entirety, the Board must conclude that it lacks jurisdiction to consider the instant claim because it has been rendered moot. On January 21, 1999, the Claimant signed a "Settlement and Final Release of All Claims." According to its terms, the Claimant agreed to release the Carrier from "all . . . claims, demands, or legal proceedings of every type or nature, past, present, or future, including but not limited to those under labor law or labor contract" This broad language encompasses the instant claim and we therefore adopt the reasoning in Third Division Award 26345:

"This Board has no alternative but to conclude this specific release materially impacts upon our jurisdiction. See Third Division Award 20832, 22645, 24869 and 25678. We subscribe to the view that if the language of the release supports a finding the release encompasses all claims, the employee is bound by the settlement and release. Accordingly, the Claim before us is moot and barred from our consideration."

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 October 1999.