

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35315
Docket No. MW-33335
01-3-96-3-843**

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

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(St. Louis Southwestern Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (suspension from service pending hearing and subsequent dismissal) imposed upon Machine Operator L. B. Murry for alleged violation of Rules 1.1, 1.1.2 and 1.6 of the Safety and General Rules for All Employees and Rules 72.13.3 and 72.13.32 of the Chief Engineers Instructions for Maintenance of Way and Engineering in connection with the collision of Tamper 311 with the rear end of Train 1MBSMF2 16 Engine 8559 near Mile Post 559.50 near Chandler, Texas on August 17, 1995 was without just and sufficient cause, desparate treatment and on the basis of unproven charges (System File MW-95-54-CB / MW D95-42).**
- (2) The Claimant shall be reinstated to service with seniority and all benefits and rights unimpaired, his record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered as a result of the Carrier’s actions.”**

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 Board has been advised that the Claimant executed a "Release of all Claims" on July 7, 1998, which specifically covered the claim involved herein. Accordingly, the claim has become moot and is dismissed.

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 16th day of February, 2001.