

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37420
Docket No. MW-37147
05-3-02-3-118**

The Third Division consisted of the regular members and in addition Referee Steven M. Bierig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Soo Line Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (letter of discipline placed in personal file) imposed upon Mr. A. Engum on August 14, 2000 for alleged violation of “***GCOR Rule #1.1 Safety, Subpart 1.1.1 Maintaining a Safe Course, Subpart 1.1.2 Alert and Attentive (sic), and also the Safety Handbook, General Rule (A) Safety.’, in connection with personal injuries occurring on April 24, 2000 while working on the Elbow Lake Subdivision and on May 23, 2000 while working on the Newtown Subdivision, was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System File D1490-08.00/8-00409).
- (2) As a consequence of the violation referred to in Part (1) above, the Carrier shall now remove the aforesaid letter of discipline from Mr. A. Engum’s file.”

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.

It appears that in addition to the instant claim, the Claimant brought a claim against the Carrier for an injury resulting from the incident that gave rise to the discipline. It further appears that the Claimant settled his claim and signed a release waiving all claims, including those of employment. Accordingly, the instant matter must be 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 22nd day of March, 2005.