

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40297
Docket No. SG-39673
10-3-NRAB-00003-060166
(06-3-166)**

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

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Signalmen on the Union Pacific Railroad:

Claim on behalf of L. C. Durrant, for extension of his Health and Welfare benefits for the remainder of 2004 and all of 2005, account Carrier violated the current Signalmen’s Agreement, particularly the National Health and Welfare Agreement and Rule 69, when it compensated the Claimant for vacation time on January 29, 2004, and deducted Health and Welfare cost sharing but failed to extend the Claimant’s benefits for him and his dependents as required by the Agreement. Carrier’s File No. 1420030. General Chairman’s File No. UPGCW-H&W-1106. BRS File Case No. 13500-UP.”

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 record reflects that in May 1999 and January 2002, the Claimant, formerly a signal employee, was injured while employed by the Carrier. As a result of these injuries, the Claimant filed a personal injury suit which was settled against the Carrier in December 2003. As part of the settlement, on December 18, 2003, the Claimant signed a Release of All Claims against the Carrier that states, in pertinent part:

“I further acknowledge that, in consideration of the payments set forth above, I agree to waive all claims and rights to the following: All claims for damages of any kind or nature against Union Pacific under the Federal Employers’ Liability Act or any other statute, ordinance, or rule of law including, without limitation, the Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 1870 and 1871, the Americans With Disabilities Act and any other federal, state, or local disability statutes, rules, or regulations, and the Railway Labor Act or any labor or personal contract of employment. It is my intent to completely and irrevocably settle by this Release all claims of any kind or nature arising out of my employment with Union Pacific, as well as the claims set forth hereinabove.”

The above language is broad and unquestionably absolves the Carrier from all claims and demands arising from the Claimant’s employment with the Carrier. In light of this broad release, and based upon applicable arbitral precedent in analogous situations (see, e.g., Third Division Award 39367) the claim is moot and is hereby dismissed.

Form 1
Page 3

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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 1st day of March 2010.