

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23932  
Docket Number MW-23805

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Trackman Alphonso Sanchez was without just and sufficient cause and on the basis of unproven charges (System File B-1-79).

(2) The Carrier violated the Agreement when it failed to timely render decision following the investigation held on June 5, 1979.

(3) As a consequence of the aforesaid violations, the claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant Alphonso Sanchez, a Trackman, was dismissed on May 18, 1979 for submitting to the Carrier a doctor's note containing a suspect signature. The Record establishes that sometime after the claim had been handled on the property, the Claimant personally and without reference to the Organization settled a law suit he had brought against the Carrier. As part of that settlement the Claimant executed a "Release in Full" in favor of the Carrier reciting in part:

"... IN FULL AND COMPLETE SETTLEMENT, SATISFACTION, PAYMENT AND DISCHARGE of ANY and ALL CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTIONS AND JUDGMENTS, including all costs, damages and expenses of every kind and nature which I now have or may or can have at anytime hereafter have against the ..."

Carrier arising out of a certain claimed injury.

The release further recites that Claimant certifies that his injuries are totally and permanently disabling, and therefore,

"... In light of the foregoing, ALFONSO SANCHEZ here - with RESIGNS his position with THE BELT RAILWAY COMPANY OF CHICAGO and further agrees that he will not seek employment with The Belt Railway Company of Chicago at any time in the future."

A jurisdictional issue can be raised initially at the Board level (See Awards 8886 McMahon, 9189 Weston, 10956 Dolnick, 16786 Zumas). Furthermore, as Referee Brent stated in Award 19528:

"This Board has consistently recognized that an employe is bound by such a settlement and release, and that in the face of such a settlement and release the disputes coming thereunder are deemed to be adjusted and this Board has no jurisdiction. It is not necessary for the Board to deal with the substantive issue raised in these dockets as the issue has been made moot."

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim is moot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June 1982.

