

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25887
Docket Number CL-25723

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9863) that:

1. Carrier violated the terms of the current Agreement, particularly Rules 31 and 34 when on Labor Day, September 6, 1982, it permitted work regularly assigned to Position #008, occupied at the time by Mr. R. E. Schauer, to be performed by another employee.

2. Carrier shall now be required to compensate Mr. R. E. Schauer five hours and twenty minutes pay at the time and one-half rate as a result of this violation."

OPINION OF BOARD: Certain work regularly assigned to the position occupied by Claimant was performed by someone other than Claimant on Labor Day, September 6, 1982.

Claimant is no longer in the employ of the Carrier, having resigned effective January 4, 1983. Upon resigning, Claimant signed a general release waiving all rights to any claims due from the Carrier, including any claims due under any labor agreement.

The Organization contends that an employee cannot give away rights provided under the Agreement. In theory, the Board agrees with this. However, giving away "rights" and resigning from employment appear to be very different things. Claimant Schauer apparently left employment and signed a general waiver on a voluntary basis. There is no evidence that such waiver was for the purpose of undermining the principles of the Agreement. The waiver, in fact, appears to be a general release covering many things beyond the labor agreement. Under the terms of that waiver, Mr. Schauer ceased being Claimant Schauer.

Based on previous precedent of this Board, the Board finds this claim moot absent a qualified Claimant.

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;

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

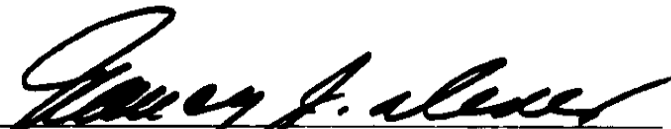
That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1986.