

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26269
Docket Number MW-26146

Marty E. Zusman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railway Company
(Southern Region)

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

(1) The discipline (Appendix 'B' letter dated September 21, 1983) imposed upon Trackman B. H. Myers, III for alleged absence without authority on September 12, 13, 14, 15 and 16, 1983 was arbitrary, capricious and unwarranted (System File C-M-1967/MG-4304).

(2) The Appendix 'B' letter mentioned in Part (1) hereof shall be removed from the claimant's record."

OPINION OF BOARD: After a careful review of the Memorandum of Agreement, Appendix "C", and the December 21, 1978, Letter Agreement, this Board will forego a discussion of and a determination of merits. The above referenced Appendix "C" and Letter Agreement taken together indicate that the Organization's requested remedy as per Part (2) of the Claim has already occurred. A complete reading of the on-property record as well as the Ex Parte Submissions and Rebuttals convinces us that the Claim before this Board is of no consequence.

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.

Award Number 26269
Docket Number MW-26146

Page 2

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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1987.