

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28075
Docket No. MW-28298
89-3-87-3-818

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

(Brotherhood of Maintenance of Way Employes

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation - (Amtrak)
Northeast Corridor

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

(1) The Carrier violated the Agreement when it improperly closed the service record of Trackman R. Givens (System File NEC-BMWE-SD-1581).

(2) The claimant shall be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

A Claim was filed on Claimant's behalf following Carrier's notification to him on September 23, 1985, that, as a consequence of his having absented himself from work since September 5, 1985, without notifying his Supervisor, he was considered to have resigned from service, in accordance with Rule 21(A) of the Agreement.

Subsequently, on June 19, 1987, Claimant executed a general release, in which he agreed not to exercise seniority as a Trackman or in any other position. He agreed further:

"...not to present myself for employment or re-employment by the National Railroad Passenger Corporation in any capacity, at any location or facility, now or in the future."

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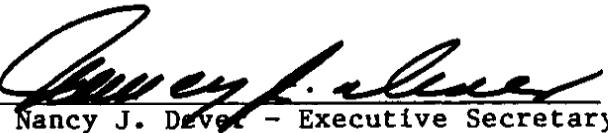
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As a result of Claimant's signing the release, this Board must conclude that Claimant terminated the viability of his Claim. Having executed a valid and binding waiver, the Claim must be dismissed as moot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Devee - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.