

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32573
Docket No. SG-33740
98-3-97-3-208

The Third Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railway Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (C&O):

Claim on behalf of R. T. Martin for payment for all time lost as a result of his suspension from service from April 1 to May 1, 1996 and for his record to be cleared of all charges in connection with this discipline, account Carrier violated the current Signalmen’s Agreement, particularly Rule 55, when it imposed harsh and excessive discipline against the Claimant without meeting the burden of proving its charges in connection with an investigation conducted on March 11, 1996. Carrier’s File No. 15(96-120). General Chairman’s File No. 96-30-CD. BRS File Case No. 10180-C&O.”

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.

On February 10, 1996 the Claimant was advised to attend an Investigation to determine facts and place responsibility, if any, in connection with his alleged refusal to follow instructions given to him by Signal Supervisor T. D. Ison, and Roadmaster Stewart at the Waverly Medical facility, and with his alleged failure to observe safe work practices while on duty at mile post 30 on the Northern subdivision.

The Claimant was charged with insubordination, gross negligence and a violation of Safety Rule No. 1. He was held out of service pending results of the Investigation.

After the Investigation was held on March 11, 1996 at the office of Signal Supervisor H. D. Baker at South Portsmouth, Kentucky, the Claimant was advised that he had not been found guilty of insubordination, but that he had been found guilty of a flagrant violation of Safety Rule No. 1. As a result of this violation, he was suspended for a period of 30 working days which ran from April 1 through May 1, 1996.

The discipline was appealed by the Organization in the normal manner up to and including the highest Carrier Officer designated to hear such. Absent settlement of this claim on the property it was docketed before the Third Division for final adjudication.

After reviewing the full record on this claim the Board is forced to conclude, as we did in Third Division Award 32572, that the instant claim has no viability in view of the May 7, 1997 Settlement Agreement unilaterally signed by the Claimant with the Carrier which contained a release of all claims provision. According to the terms of that Agreement, which included a sum not specified to the Board, the Claimant:

“... agree(d) not to return to work for CSXT in any capacity whatsoever
... (and to) ... the release of any and all outstanding labor claims which
(he) may or may not have against CSXT...”

The Board has ruled on numerous occasions that a claim is moot in the face of such a waiver. See Third Division Awards 20832, 26470 and 26694. Also First Division Award 24045 and Second Division Award 13034.

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 29th day of April 1998.