

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33960
Docket No. MW-34495
00-3-98-3-140**

The Third Division consisted of the regular members and in addition Referee Stephen B. Rubin when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employes
(Union Pacific Railroad Company (former Southern Pacific
(Transportation Company (Eastern Lines))

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The sixty-seven (67) day suspension assessed Machine Operator W. Williams, III for his alleged responsibility in the personal injury he sustained on July 10, 1996 was without just and sufficient cause, based on an unproven charge and in violation of the Agreement (System File MW-97-83/1048988D SPE).**
- (2) As a consequence of the violation referred to in Part (1) above, Machine Operator W. Williams, III shall have ‘. . . the discipline and charges be removed from the claimant’s personal and discipline records as outlined in the first paragraph of this letter. This in addition to all and other compensation he may and should have received.”**

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 October 26, 1998, the Claimant executed a "Compromise and Settlement Agreement and Release" covering all aspects surrounding the incident that occurred on July 10, 1996. The claim in this dispute arose out of the same incident. The claim must be dismissed as moot. See Second Division Award 13034, as well as Third Division Awards 30026, 27496, 26345, 25678.

Claim dismissed.

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 22nd day of February, 2000.