

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37771
Docket No. MW-37174
06-3-02-3-155

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company (former Chicago &
(North Western Transportation Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed to call and assign Trackman M. Antonio for extra trackman work in the area of Des Moines, Iowa beginning on December 18, 2000 and continuing and instead called and assigned junior employee E. Hebl (System File 2RM-9229T/1260863 CNW).
- (2) As a consequence of the violation referred to in Par (1) above, Claimant M. Antonio shall now “*** be compensated for the 72 hours of straight time, 18 hours of overtime and 24 hours of Holiday compensation, at the applicable rate of pay.”

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.

As background, the Claimant was called for extra work with snow removal from December 4 through 13, 2000. Another snowstorm was expected and the Claimant was prepared and ready to work as an extra employee. Instead of the Claimant being called for the work, a junior employee was called.

It is not necessary to go further with the Organization's claim and the Carrier's response. While the Board read the full record, we are compelled to dismiss this case without consideration of the merits. The Claimant has given up on all future disputes. The Board notes in the Carrier's Submission, that there exists a Resignation Release signed by the Claimant which states, in pertinent part, in Paragraph III, d:

"Any and all claims or rights which [Claimant] may have accumulated under any applicable collective bargaining agreements, claims for wages and bonuses, grievances, claims for other compensation of any type arising out of any employment relationship with the Company ..."

are given up. Because the Claimant released the parties from all said claims, the instant claim is moot. Accordingly, the Board must dismiss this claim as per the Resignation Release signed by the Claimant.

AWARD

Claim dismissed.

Form 1
Page 3

Award No. 37771
Docket No. MW-37174
06-3-02-3-155

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 25th day of April 2006.