

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39000
Docket No. MW-38439
08-3-NRAB-00003-040396
(04-3-396)

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Paducah & Louisville Railway, Inc.)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier removed Mr. R. McClure from the seniority roster on June 20, 2003 (System File C062003).
- (2) As a consequence of the violation referred to in Part (1) above, Mr. R. McClure shall now be reinstated on the seniority roster.”

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 July 16, 2002, the Claimant herein applied for and was granted a medical leave of absence for a back condition. By letter dated June 27, 2003, the Carrier terminated the Claimant's employment and his health and dental insurance for failing to return to work upon the expiration of his approved leave of absence. On August 7, 2003, the Organization submitted a claim on behalf of the Claimant alleging a violation of Rule 22, Leave of Absence, of the parties' Agreement.

While this case was pending before the Board, the parties voluntarily entered into a settlement agreement resolving the dispute. In accordance with the terms of the settlement, this case is 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 27th day of March 2008.