

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40450
Docket No. SG-40066
10-3-NRAB-00003-070334
(07-3-334)**

The Third Division consisted of the regular members and in addition Referee William R. Miller when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Northeast Illinois Regional Commuter Railroad
(Corporation (Metra)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Northeast Illinois Regional Commuter Rail Corp.:

Claim on behalf of J. S. Anderson, for all wages lost with any reference to this matter removed from his personal record and to otherwise be made whole, as required by Rule 54 - Exoneration, account Carrier violated the current Signalmen's Agreement, particularly Rule 53, when it issued the harsh and excessive discipline of dismissal against the Claimant on April 13, 2006 without due process and without providing an investigation as required by Rule 53. Carrier's File No. 11-19-553. General Chairman's File No. 7-D-06- ANDERSON. BRS File Case No. 13852-NIRC.”

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.

The facts of this case are that beginning January 23, 2006, the Claimant was absent from his assignment as a Signal Testman headquartered at the Wire Shop in Tinley Park, Illinois, without authority for more than 20 days. He did not contact his Supervisor to request a leave of absence, nor did he provide any reason for his absence. On February 13, 2006, Capital Supervisor R. Spargo wrote a letter to the Claimant advising him that the Carrier considered him as having abandoned his position and because of that he was terminated effective that date.

Subsequently, a claim was filed by the Organization on behalf of the Claimant, alleging that he had been discharged without benefit of a Hearing as guaranteed by Rule 53 - Investigations and Discipline. The Organization requested that the Claimant be reinstated and made whole for any monetary losses suffered.

The Board reviewed the record of this case, which is the fifth in a series of five cases involving the Claimant. Despite the vigorous defense by the Organization of the Claimant, the issues raised by the parties need not be addressed because the case is moot. The Board upheld the Carrier's dismissal of the Claimant in Third Division Award 40452. Therefore, the Board finds and holds that the case is dismissed.

AWARD

Claim dismissed.

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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 14th day of May 2010.