

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 40520
Docket No. SG-39031
08-3-NRAB-00003-050309
(05-3-309)

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp.:

Claim on behalf of J. Jackson, for reinstatement to his former position with all rights and benefits restored, account Carrier violated the current Signalmen’s Agreement, particularly Rule 51, when it terminated the Claimant by letter dated February 25, 2004, for an alleged 14 day absence, after the Claimant notified of his Supervisor on January 8, 2004, of his medical status and without considering the documented evidence regarding his absence. Carrier’s File No. NEC-BRS(S)-SD-1040. General Chairman’s File No. JY32101087-18047. BRS File Case No. 13160-NRPC(S).”

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 Board fully reviewed the instant claim involving a dispute over the dismissal of the Claimant. The Carrier maintained that under a self-invoking Rule, the Claimant's continuous absences from January 27 through February 13, 2004 were properly covered by Rule 51 of the Agreement. The Organization maintained that the Claimant properly notified his Supervisor of his medical condition on January 8, 2004 and that the Carrier's action was inappropriate.

After study of the on-property facts and circumstances of this dispute, the Board notes that the full evidence and subsequent events have rendered this claim moot. Accordingly, the Board will dismiss the claim.

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 15th day of June 2010.