

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44099
Docket No. MW-42834
20-3-NRAB-00003-190352**

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

**(Brotherhood of Maintenance of Way Employees Division
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier failed to comply with Appendix ‘D’ (Article V of the Mediation Agreement A-89853 dated February 10, 1971 as amended) following the injury sustained by Mr. B. Broeders on December 11, 2012 and continuing (System File B-13ADU-101/1590241).**
- (2) As a consequence of the above-stated violation, Claimant B. Broeders shall “*** have payments for all Medical and Hospital care, as outlined in section (b) 2, paid in full as well as interest and damage to employees credit. Payment for all time lost as a result of the accident, as outlined in section (b) 3 and any additional harm such as but not limited to loan interest as a result of Claimant having to borrow for payment of any and all bills related to a loss of proper payment under this agreement as a result of the Carrier neglecting its obligation under the July 1, 2001 CBA.” ”**

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.

Claimant B. Broeders (Claimant) established and held seniority within the Carrier's Maintenance of Way and Structures Department. On December 11, 2012, the Claimant was involved in a vehicle accident while traveling on company time and in a Carrier owned vehicle. As a result of the accident, he incurred significant medical expenses and also suffered a loss in compensation as he was unable to work.

Following the accident, the Claimant formally requested that the Carrier provide him with all rights and benefits contained within the Off-Track Vehicle Agreement (OTVA) made part of the collective bargaining agreement. The OTVA governs payment to be made to employees who are injured under certain circumstances. The Carrier contended that it paid all verifiable actual expenses that were a direct result of the above-referenced accident and nothing was owed to the Claimant.

The Organization filed a timely claim on behalf the Claimant. The claim was properly handled by the Organization at all stages of the appeal up to and including the Carrier's highest appellate officer. The matter was not resolved and is now before this Board for resolution.

Subsequent to the on-property handling of the claim, the Claimant entered into a settlement agreement whereby he agreed "to the termination of any pending labor claims or grievances filed by me or on my behalf by any union arising from my employment with the Union Pacific, and agree to waive any awards made in connection therewith." Based on the Claimant's waiver, the instant claim must be 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 11th day of August 2020.