

PUBLIC LAW BOARD NO. 3241

In the Matter of:)	National Mediation Board
)	Administrator
BROTHERHOOD OF MAINTENANCE OF)	
WAY EMPLOYES,)	
)	
Organization,)	
and)	
)	
UNION PACIFIC RAILROAD COMPANY)	Case No. 67
(former Western Pacific Railroad),)	Award No. 67
)	
Carrier.)	
)	

Hearing Date: November 18, 1997
Hearing Location: Sacramento, California
Date of Award: February 5, 1998

MEMBERS OF THE BOARD

Employees' Member: Rick Wehrli
Carrier Member: D. A. Ring
Neutral Member: John B. LaRocco

ORGANIZATION'S STATEMENT OF THE CLAIM

1. That the Carrier violated the provisions of the current Agreement when it assessed a Level 2 Discipline to Track Laborer J. C. Almengor. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier now rescind Claimant's Level 2 Discipline, that it be removed from his personal record, and that he be compensated net wage loss and mileage expense incurred for his attendance at his formal investigation. (950377)

OPINION OF THE BOARD

This Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act as amended; that this Board has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated July 23, 1982; and that all parties were given due notice of the hearing held on this matter.


The Carrier assessed Claimant a Level 2 Upgrade for allegedly sleeping while on duty. Subsequent to the imposition of discipline and Claimant's appeal therefrom, Claimant resigned from service. In his resignation, Claimant surrendered all his rights arising out of his employment relationship with the Carrier. As a result, Claimant relinquished his right to appeal the discipline in this case.

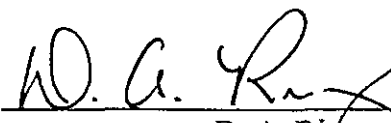
Therefore, the Board finds that Grievant's claim is moot and thus, it must be dismissed.

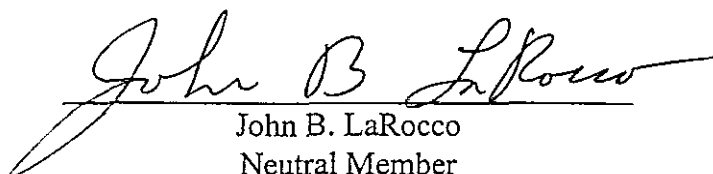
AWARD AND ORDER

Claim dismissed.

Dated: February 5, 1998


Rick Wehrli
Employees' Member


D. A. Ring
Carrier Member


John B. LaRocco
Neutral Member