

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. 72
(former Western Pacific Railroad),)	Award No. 72
)	
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 Mr. I. F. Anaya with a Level 2, Letter of Reprimand. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier now reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss suffered and his record cleared of all charges. (960193)

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 charged Claimant, a Laborer, with negligence which caused him to injure himself and with failure to timely report the alleged on duty injury. Following the investigation, the Carrier assessed Claimant a Level 1 Upgrade (Letter of Reprimand) for working in an unsafe manner. Evidently, the Carrier exonerated Claimant of the remaining charges.

✓ Subsequent to the imposition of discipline and Claimant's appeal therefrom, Claimant and the Carrier entered into a settlement agreement. Pursuant to the terms of this agreement, Claimant relinquished any and all rights arising out of his employment relationship with the Carrier and he severed this relationship. As a result, Claimant relinquished all right to appeal the discipline herein.

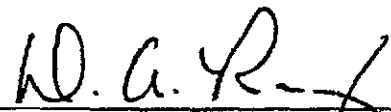
Therefore, the Board finds that this claim is moot and thus, it must be dismissed.


AWARD AND ORDER

Claim dismissed.

Dated: February 5, 1998


Rick Wehrli
Employees' Member


D. A. Ring
Carrier Member


John B. LaRocco
Neutral Member