

**BEFORE PUBLIC LAW BOARD NO. 6043**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION  
IBT RAIL CONFERENCE**

**and**

**ILLINOIS CENTRAL RAILROAD COMPANY**

**Case No. 66**

**STATEMENT OF CLAIM:** “Claim of the System Committee of the Brotherhood that:

1. The discipline [twenty (20) day suspension without pay] imposed upon the Claimant for his alleged violation of U.S. Operating Rules – General Rule C – Alert and Attentive, LIFE U.S. Safety Rules – Section II, Core Safety Rules #1 and h and LIFE U.S. Safety Rules – Section II, Core Safety Rules, #13 Work environment resulting in his personal injury while working at Mile Post 56.8 on the Chicago Sub in Kankakee, Illinois on Thursday, July 31, 2008 at approximately 3:45 P.M. is based upon unproven charges, which warrants no discipline of any degree whatsoever (System File S.A100308.0/IC-BMWED-2008-00017).
2. As a consequence of the violation referenced to in Part 1 above, Mr. E. McIntyre is entitled to the full remedy detailed in Rule 33(i) of the Collective Bargaining Agreement.”

**FINDINGS:**

By notice dated August 6, 2008, the Claimant was directed to attend a formal investigation and hearing on charges that the Claimant had violated Carrier rules and/or regulations in connection with an incident during which the Claimant suffered a personal injury. The investigation was conducted, as scheduled, on August 21, 2008. By notice dated September 8, 2008, the Claimant was informed that as a result of the investigation, he had been found guilty of violating Carrier Operating and Safety Rules, and that he was being assessed a twenty-day suspension. The Organization subsequently filed the instant claim on behalf of the Claimant, challenging the Carrier’s decision to discipline him. The

Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because substantial evidence proves the Claimant's guilt, because the hearing was fair and impartial, and because the discipline assessed was not harsh, arbitrary, or an abuse of discretion. The Organization contends that the instant claim should be sustained in its entirety because the Carrier failed to prove the charges against the Claimant, and because the discipline imposed serves no purpose other than punishment.

The parties being unable to resolve their dispute, this matter came before this Board.

At the oral argument of this matter, the Carrier presented for the first time a Release that had been signed by the Claimant settling all disputes with the Carrier. That Release, dated March 30, 2010, states that the Claimant, Edward McIntyre, is resigning from the service and employment of the Illinois Central Railroad and its predecessors, successor and affiliated companies, and "I do hereby relinquish and surrender any rights and seniority that I may have under any agreement or contract as a machine operator, or in any other capacity on the railroad."

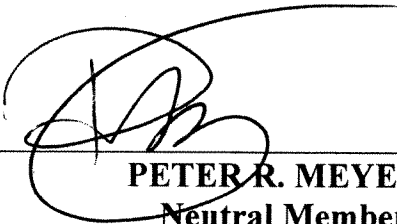
That Release goes on to state that "I understand and agree that, as part of the consideration for this resignation and the release of my personal injury claim through the Release and Settlement Agreement dated March 30, 2010, I am not entitled or eligible to claim any separation allowance, buyouts, or labor protective benefits, and I hereby agree I cannot and will not make or present any claim for same."

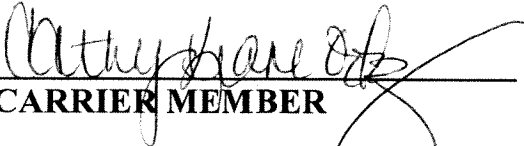
Since the Claimant has waived all of his rights and in another document released

the Carrier from all claims, this Board has no choice other than to dismiss the claim.

**AWARD:**

The claim is dismissed.

  
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**PETER R. MEYERS**  
Neutral Member

  
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**CARRIER MEMBER**  
DATED: MARCH 31, 2011

  
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**ORGANIZATION MEMBER**  
DATED: March 31, 2011