

NATIONAL MEDIATION
BOARD

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NATIONAL RAILROAD
ADJUSTMENT BOARD

PUBLIC LAW BOARD NO. 457

PARTIES TO THE DISPUTE:

Louisville & Nashville Railroad Company
and
The United Transportation Union (T)

AWARD NO. 13

CASE NO. 18

STATEMENT OF CLAIM:

Request of Memphis Line Trainman G. Watson that he be reinstated with seniority and vacation rights unimpaired, pay for all time lost, account dismissed from service for alleged responsibility in connection with moving out of industry track and striking the side of a passing passenger train at Russellville, Kentucky, at about 11:30 a.m., January 18, 1968.

FINDINGS:

Claimant was removed from service on February 9, 1968, and thereafter was reinstated on a leniency basis by the Carrier with seniority unimpaired on April 11, 1968. The claim insofar as it requests reinstatement is, therefore, moot and the Carrier asserts that the claim for pay for time lost is also moot since the claimant individually signed a written waiver of any claim for time lost as a condition of accepting the leniency reinstatement.

It is the contention of the Organization that the leniency reinstatement agreement between the Carrier and the individual is invalid and ineffective since it did not have the consent of the General Chairman.

The record establishes that although the General Chairman was the designated representative of this employee at the investigation and in asserting his claim for reinstatement thereafter, nevertheless the individual employee voluntarily elected to approach the Carrier on his own to seek reinstatement on a leniency basis. On April 3, 1968, the Carrier directed a letter to the General Chairman stating that the claimant had approached Carrier officials seeking a leniency reinstatement, that the Carrier was willing to restore him to service on a leniency basis without pay for time lost, and requested the recommendation of the General Chairman. The General Chairman replied stating that he was unwilling to concur in a leniency reinstatement on the terms proposed by the Carrier. Thereafter the Carrier went ahead and entered into the agreement with the individual claimant.

The Carrier has cited numerous awards of the First Division and several Special Board of Adjustment awards all holding that individual claimants may enter into waiver agreements of the type involved here without the consent or even the knowledge of his representative. These holdings are consistent with the generally accepted rule of law holding that a party to a legal action or asserting a claim through an attorney may compromise that claim with the opposing party without the consent or approval of his attorney. On the basis of these authorities, it must be held that claimant executed a valid and binding waiver of his claim for time lost and this entire claim is now moot.

AWARD:

Claim denied.

Paul D. Hanlon

Paul D. Hanlon
Chairman and Neutral Member

J. P. Saunders

J. P. Saunders, Employee Member

Ray J. H.

W. T. Wallace

W. T. Wallace, Carrier Member

Louisville, Kentucky

Aug 4, 1971