

PUBLIC LAW BOARD NO. 7194

AWARD NO. 7

CASE NO. 7

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees Division – IBT Rail Conference

vs.

Union Pacific Railroad Company

ARBITRATOR: Janice K. Frankman

DECISION: Dismissal

STATEMENT OF CLAIM AND MOTION:

Request on behalf of G.D. Muscatt, for removal of discipline, assessed by Carrier and scheduled for hearing on July 15, 2008, and Motion by Carrier for dismissal with prejudice. (System File 1470894)

FINDINGS:

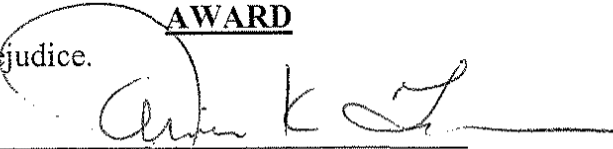
The Board, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute herein; and that the parties were given due notice of the hearing.

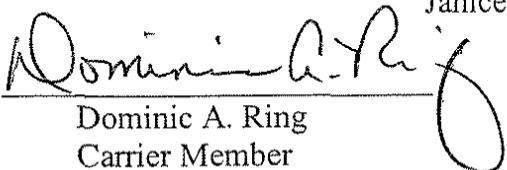
Claimant has executed a Release attached as Appendix A hereto, releasing Carrier from all claims and liability arising from his employment including personal injury claims arising from accidents on June 7, 2004, and October 31, 2006, asserted in the matter of *GORDON MUSCUTT v. Union Pacific Railroad Company*, Case No. 080507235, filed in Multnomah County Circuit Court in Portland, Oregon. Claimant has averred waiver of all rights to return to active service including agreement to never seek employment with Carrier.

Prior to hearing of this matter, Carrier moved to dismiss this case with prejudice pending execution of the attached full Release of all Claims by Claimant. Following the hearing, Carrier submitted the Release document executed by Claimant on July 22, 2008. Organization concurred with Carrier's Motion. It is therefore appropriate to grant Carrier's Motion and to dismiss the case with prejudice.

AWARD

Case dismissed with prejudice.

  
Janice K. Frankman, Chairperson  
Neutral Member

  
Dominic A. Ring  
Carrier Member

  
Timothy W. Kreke  
Organization Member

September 26, 2008

Sep. 26, 2008