

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23932  
Docket Number MW-23805

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employes**  
[The Belt Railway Company of **Chicago**

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

(1) The **dismissal** of **Trackman Alphonso** Sanchez was without just **and** sufficient cause and on the basis of **unproven** charges (System File B-1-79).

(2) The Carrier violated the Agreement when it failed to timely render decision following the investigation held on **June 5, 1979**.

(3) As a consequence of the aforesaid violations, the claimant shall be reinstated with seniority and all other rights unimpaired **and** he shall be **compensated** for all wage loss suffered."

OPINION OF BOARD: **Claimant** Alphonso Sanchez, a **Trackman**, was **dismissed** on May 18, 1979 for **submitting** to the Carrier a doctor's note **containing** a suspect signature. **The** Record establishes that **sometime** after the claim had been **handled** on the property, the **Claimant** personally **and** without reference to the **Organization** settled the law suit he had brought against the Carrier. As **part** of that settlement **the** Claimant executed a "Release in Full" in favor of the Carrier reciting in **part:**

" . . . **IN FULL AND COMPLETE SETTLEMENT, SATISFACTION, PAYMENT AND DISCHARGE of ANY and ALL CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTIONS AND JUDGMENTS,** including all costs, **damages** and expenses of every kind and nature which I now have or may or can have at anytime hereafter have **against** the . . ."

Carrier arising out of a certain claimed injury.

The release further recites that **Claimant** certifies that his injuries are totally **and permanently** disabling, and therefore,

" . . . **In** light of the foregoing, **ALFONSO SANCHEZ** here-with **RESIGNS** his position with **THE BELT RAILWAY COMPANY OF CHICAGO** and further **agrees** that he will not seek employment with **The Belt Railway Company of Chicago** at any time in the future."

A jurisdictional issue can be raised initially at the **Board** level (See Awards 8886 **McMahon**, 9189 **Weston**, 10956 **Dolnick**, 16786 **Zumas**). Furthermore, as Referee **Brent** stated in Award 19528:

"This **Board** has consistently recognized that an employe is bound by such a settlement and release, and that in the face of such a settlement and release the disputes arising thereunder **are** deemed to be adjusted **and** this **Board** has no jurisdiction. It is not **necessary** for the **Board** to deal with the substantive issue raised in these dockets as the issue has been **made** moot."

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

**That** the **parties** waived oral hearing;

That the Carrier and the **Employes** involved in this dispute are respectively **Carrier** and **Employes** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment **Board** has jurisdiction over the dispute involved herein; and

That the **claim** is **moot**.

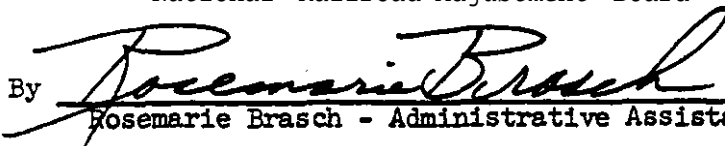
A W A R D

**Claim** dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of **Third** Division

**ATTEST:** Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago**, Illinois, this 30th day of June 1982.

