

The Second Division consisted of the regular members and in addition Referee Jonathan Klein when award was rendered.

(Brotherhood Railway Carmen of the United States  
(and Canada

Parties to Dispute: (

(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employes:

1. That the Baltimore and Ohio Railroad Company violated the terms and/or provisions of the controlling Agreement when on the date of October 7, 1982 they subjected Claimant, Carman Vincent A. Romano, Curtis Bay, Baltimore, Maryland, to an unfair and partial hearing allegedly as a result of a violation of Blue Signal Circular, CSD-82, Section 5.01 on the date of September 18, 1982 at Curtis Bay, thusly, further subjecting Claimant to discipline of five (5) calendar days actual suspension commencing with the date of November 5, 1982 through November 9, 1982.

2. That Carrier violated Rule 32 of the controlling Agreement with regard to the instant case.

3. That accordingly, Carrier be ordered to compensate Claimant for all time lost as a result of such arbitrary discipline, including any and all overtime to which entitled, that he be made completely whole, as though he had never been subjected to such discipline, and that his record be cleared accordingly.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant, Vincent A. Romano, was employed by the Carrier at its Curtis Bay facility in Baltimore, Maryland. Claimant was charged with a violation of Blue Signal Circular CDT-82, Section 5.01 set forth in its entirety in the companion case, Award No. 10690, and he received discipline of five days actual suspension after a formal investigation conducted on October 7, 1982.

Claimant admitted that on the day of the alleged offense he was responsible for the placement of the blue flag and lock on the east end of Track No. 19. Claimant asserted that a fellow employee removed the lock and flag in order to afford him a break. However, there was no testimony by that employee in support of Claimant's position. The General Car Foreman and Assistant Car Foreman testified that Claimant worked Track No. 19 without a lock or flag on the west end of the track, and without a lock on the east end. The Assistant Car Foreman testified that all possible switches on the east end of the yard that would have protected Track No. 19 were inspected, but none were locked.

Claimant's case has been thoroughly reviewed by this Board. The witnesses, facts and issues presented are substantially identical to those in Award No. 10690, save and except that Claimant was working the east, rather than west end of Track No. 19. A careful review of the record and arguments on appeal establish the Carrier met its burden of proof that Claimant violated the fundamental requirements of the Blue Signal Circular. The rationale contained in our opinion in Award No. 10690 is equally applicable to this case, and the Claim is hereby denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of January 1986.