

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13673

Docket No. 13559

02-2-00-2-35

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood of Railway Carmen Division
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. The Springfield Terminal Railway Company violated the terms of the current agreement, in particular Rule 13.1 when they arbitrarily suspended Henry J. Satrowsky from service as a result of an investigation held on July 2, 1999.**
- 2. That, accordingly, the Springfield Terminal Railway Company be ordered to compensate Carman Henry J. Satrowsky in the amount of eight (8) hours pay for each workday he was withheld from service commencing August 2, 1999 through and including August 4, 1999. Also, any reference to this discipline should be removed from his personal record and file.”**

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

After Investigation, the Claimant received a three-day suspension by letter dated July 28, 1999 for failing to apply an air brake slip.

The Claimant is a Carman at the Carrier's Car Repair Facility at East Deerfield, Massachusetts. The record shows that on May 24, 1999, the Claimant was assigned to perform a terminal air brake test on train EDPO. The Claimant performed the test, but failed to leave an air brake slip with the train before going off duty. The Claimant had to return to East Deerfield and provide the slip. As a result, the train was delayed for two hours.

The Claimant does not deny failing to leave the air brake slip. According to the Claimant "... I didn't leave an air slip. I admit to that." Tr. 28. See also, Tr. 34 where the Claimant testified:

"[Q] ... Prior to 1900 hours when you had left the property, did you apply an air brake slip to train EDPO?

[A] No."

The Claimant also admits that he was aware of the obligation to leave an air brake slip. According to the Claimant, "If I'm not going to be on the premises, I have to leave an air slip stating that I tested the train." Tr. 29.

Substantial evidence therefore supports the Carrier's determination that the Claimant engaged in misconduct. The Claimant knew that he was required to leave an air brake slip. The Claimant admittedly failed to do so.

However, we find that under the circumstances a three-day suspension was excessive and arbitrary. The Claimant has a relatively good record. We believe that a one-day suspension will get the message through to the Claimant that he must perform his duties as required. The Claimant shall therefore be made whole less the consequences of a one-day suspension.

Form 1
Page 3

Award No. 13673
Docket No. 13559
02-2-00-2-35

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 11th day of February, 2002.