Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13234
Docket No. 13126
98-2-96-2-25

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railway Company)

STATEMENT OF CLAIM:

"1. That at Huntington, WV, on July 28, 1994, CSX Transportation violated the controlling agreement, particularly, Rule 37, when Electrician R. H. Cunningham ID 629017 was found guilty as charged as a result of investigation held on June 29, 1994. The discipline assessed was ten (10) days actual suspension beginning August 14, 1994 and ending on August 25, 1994.

2. That electrician R. H. Cunningham be compensated for all time lost as a result of this unjust suspension at the pro rata rate and be made whole for all vacation rights, for all health and welfare and insurance, for pension benefits, including Railroad Retirement and Unemployment Insurance, and for any other benefits that he would have earned as said benefits are part of the wages lost while being unjustly withheld from service and his personal record be cleared of all matters referred to herein."

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.

Claimant was suspended from the service of the Carrier for ten days as a result of an Investigation held on June 29, 1994. Claimant was found to have failed to perform the duties assigned and with contributing to inefficiency and delay to production on third shift on June 8, 1994.

The Organization filed this claim on the basis that the Claimant was not given a fair and impartial Hearing. It takes the position that the charges were not precise, the Hearing Officer was biased, and the Carrier failed to prove the charges.

The Carrier argues that the charges were precise, the Hearing was fair and the Claimant was guilty of the charges.

A full review of the record reveals the Claimant received a fair and impartial Hearing. While the Notice of Investigation could have been better written, the Claimant was aware that the charges pertained to work on the third shift on June 8, 1994. The charges were precise enough for the Organization to prepare a defense.

A review of the transcript reveals that the Claimant and another Electrician were instructed at 11:15 P.M. to install three cooling fans on Locomotive 8535. At approximately 1:20 A.M. a Supervisor found the Claimant in the cab of the locomotive and the fans had not been installed.

Claimant testified that a Boilermaker was needed to perform the work and that both Electricians had done "sheet" work. When confronted with the work sheet the Claimant refused to look at it in order to identify the work performed. Claimant also admitted that no one was informed that a Boilermaker was needed. After the confrontation with the Supervisor, the fans were installed in about one hour.

From the record it is clear that the Claimant performed no work during the first two hours of the shift. The Board will not overturn the action of the Carrier.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of March 1998.