

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13421

Docket No. 13295

99-2-97-2-67

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

**(Brotherhood Railway Carmen, Division of Transportation
(Communications International Union**

PARTIES TO DISPUTE: (

(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- 1. "That the Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rule 13.1 when they arbitrarily suspended Carman Fred E. Curtis from service for five (5) working days as a result of an investigation held on September 20, 1996.**
- 2. That, accordingly, the Springfield Terminal Railway Company be ordered to compensate Carman Fred E. Curtis in the amount of eight (8) hours pay for each workday he was withheld from service, commencing October 14, 1996 through and including October 18, 1996, a total of five (5) working days. Additionally, time lost to attend this hearing, any overtime hours he may have lost and all correspondence regarding this investigation be removed from his 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.

On August 14, 1996, Claimant was notified to appear for an investigation on September 5, 1996. The notice charged Claimant with being an unsafe employee as shown by his safety record from August 1995 through August 1996. Following two postponements, the hearing was held on September 20, 1996. On October 7, 1996, Claimant was advised that he had been found guilty of the charges and that he was assessed a five day suspension.

The entire case against Claimant was based on his accumulation of 15 failed STOPs during the period August 1995 to August 1996, as compared to an average of 5.7 for employees in the shop. STOP stands for Safety Training Observation Procedure. The STOPs were issued without any investigation.

Carrier's practice of issuing STOPs was before this Board in Award 13403. There we observed that STOPs cite employees with specific rule violations. We held that, as such, they went beyond mere counselling and constituted discipline. We further held that, as discipline, they could not be issued without notice and a hearing.

The STOPs in the instant case are no different than those presented in Award 13403. Accordingly, we hold that their issuance without a hearing was improper and in violation of the Agreement. A fortiori, they may not be used as the basis for a finding that Claimant repeatedly violated safety rules, warranting a five day suspension. Because the discipline was based exclusively on the improperly issued STOPs, the discipline cannot stand and the claim must be sustained.

AWARD

Claim sustained.

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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 16th day of June 1999.