

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13514

Docket No. 13421

00-2-99-2-14

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

(International Association of Machinists and Aerospace
(Workers

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

“Consolidated Rail Corporation arbitrarily and capriciously assessed Machinist M. J. Swan thirty (30) days suspension per Rule 6-A-4 (b) (1), following trial held on January 22, 1998. (Thirty days deferred suspension)

Accordingly, Machinist M. J. Swan should have his record cleared of any reference to the charges, as if the unjust discipline had not been imposed, and removal of the thirty (30) days deferred suspension.”

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.

It has been noted that certain irregularities appear in the Submissions that violate Circular No. 1 of this Board. However, our review will be based solely upon the transcript and the on-property exchange of correspondence.

The basic facts in this case are almost identical to those outlined in Second Division Award 13513. The only difference being that the Claimant used a vice to smash his safety incentive clock during his paid lunch hour, a fact Claimant readily admits.

What has been said in Second Division Award 13513 concerning the meeting with supervision is applicable to this dispute.

The Claimant in this case had, as of the Investigation, a five year, disciplinary-free relationship with the Carrier. Under these circumstances, the discipline is reduced to a record entry pertaining only to a violation of Rule 4012(d). If the Claimant has lost any time because of the discipline Carrier assessed in this case, he is to be compensated therefore as provided in the Schedule.

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 15th day of May, 2000.