

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Lloyd H. Bailer, Referee**

---

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY**  
**(Chesapeake District)**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood:

(a) That the Carrier violated the Agreement when it disqualified Watchman Mr. Russell Bowen, Jr., on charges unproved.

(b) That Mr. Russell Bowen, Jr. be restored to his former position with seniority and all other rights unimpaired and compensated for all monetary loss sustained as a result of Carrier's arbitrary and capricious action, and that all other employees adversely affected as a result thereof be treated likewise.

**OPINION OF BOARD:** Following an investigation held on the property Claimant Bowen was disciplined by being disqualified as a Watchman. He thereupon exercised his seniority to displace on a Ditto Machine Operator position in the Stores Department.

While better judgment no doubt could have been used by the Claimant in the incident which precipitated the chain of events leading to the disciplinary action taken, we think the penalty of permanent disqualification as a Watchman was an arbitrary and excessive penalty. We therefore will hold that Claimant Bowen shall be restored to the roster as a Watchman, with seniority as such unimpaired but without reimbursement for the reduction in earnings suffered by reason of his disqualification as Watchman.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier violated the Agreement.

AWARD

Claim sustained in part as indicated in the above Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June 1962.