

**Award No. 18231
Docket No. SG-18430**

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Coast Lines)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company:

On behalf of Assistant Signalman Robert Sorensen for payment of all hours worked by Signal Gang 293 — at the pro rata rate of pay for regular assigned hours and at the overtime rate of pay for overtime hours — commencing with December 29, 1967, the date he was held out of service, and continuing until Mr. Sorensen is returned to service. (Mr. Sorensen was offered reinstatement on August 30, 1968.)

(Carrier's File: 132-55-6; 132-55-7.)

OPINION OF BOARD: Under date of January 2, 1968, Claimant was notified by the Carrier to attend an investigation at the Trainmaster's office, Winslow, Arizona. It was alleged that his conduct on December 23, 1967, was unbecoming an employee, and he was charged with having violated the Carrier's General Rules for the Guidance of Employes, citing Rules 1, 3, 17 and 18. These rules provide:

"GENERAL RULE 1.

Safety is of the first importance in the discharge of duty.

Obedience to the rules is essential to safety.

To enter or remain in the service is an assurance of willingness to obey the rules.

The service demands the faithful, intelligent and courteous discharge of duty.

To obtain promotion, ability must be shown for greater responsibility."

"RULE 3.

Employes must be conversant with and obey the rules and special instructions. If in doubt as to their meaning, they must apply to the proper authority for explanation."

"RULE 17.

Employes must not be careless of the safety of themselves or others, indifferent to duty, insubordinate, dishonest, immoral, quarrelsome, or vicious. They must conduct themselves in a manner that will not bring discredit to their fellow employes or subject the railroad to criticism and loss of good will."

"RULE 18.

Courteous deportment is required of all employes in their dealings with the public, their subordinates and each other.

Employes must not enter into altercations, play practical jokes, scuffle, or wrestle on company property.

Employes must devote themselves exclusively to their duties during their tour of duty."

Under date of February 28, 1968, Mr. Sorensen was advised that he was removed from the Carrier's service; he had been held out of service since December 29, 1967.

After careful review of the record, the transcript of the proceedings of the investigation and the Agreement between the Atchison, Topeka and Santa Fe Railway Company and the Brotherhood of Railroad Signalmen we find that the Carrier has failed to meet its burden of proof.

There was no substantial evidence presented at the investigation that Claimant violated the above cited rules and such severe disciplinary action was not warranted. We will sustain the claim to August 30, 1968.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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 Agreement was violated.

AWARD

Claim sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October 1970.

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