

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21081
Docket Number SG-20890

Lloyd H. Bailer, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the **System** Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company:

(a) The Carrier is in violation of the current Signalmen's Agreement in effect on the Missouri Division of the Chicago North Western Transportation Company (formerly Chicago Great Western) particular rule 62 when on Feb. 21, 1973 it disciplined Mr. T. H. Duffy, forty-five (45) days suspension from service effective February 26, 1973 and continuing through April 9, 1973, account of the allegation that the territory he was assigned to was improperly maintained.

(b) The carrier now be required to compensate Mr. T. H. Duffy, the actual time lost because of this alleged violation and also clear his record of this discipline.

[Carrier file: D-9-30-3]

OPINION OF BOARD: The fact that an investigation was held prior to the assessment of discipline, and without claimant having requested an investigation, was not prejudicial to him and was not otherwise barred by the Agreement. Moreover, claimant made no effort to waive the investigation when it was scheduled. Instead, in the presence of two Organization representatives he stated he had been properly notified of the investigation, which was initially postponed at his request, and he further stated he was ready to proceed. No other procedural violations prejudicial to claimant are shown to have occurred.

Evidence adduced at the investigation revealed a variety of deficiencies which indicated improper maintenance on the territory assigned to claimant as a signal maintainer. Claimant's defense was insufficient to exonerate him from responsibility for improper maintenance. The 45 day suspension from service did not constitute an abuse of Carrier's discretion.

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;

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That the **Carrier** and the **Employees** invlved in this dispute **are** respectively Carrier end **Employees** within the meaning of the Railway Labor Act, as appmved June **21, 1934;**

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

That the Agreement wee not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Parker
Executive ~~Secretary~~

Dated at Chicago, Illinois, **this** 28th day of **May** 1976.