

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22432
Docket **Number MW-22294**

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(Louisville and Nashville Railroad Company

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

(1) The record suspension of forty-five (45) days imposed upon Foreman T. E. Wolfe for alleged 'responsibility in connection with the loss of radio A-3564 on or about **May 7 - 10, 1976**' was capricious, arbitrary, **without** just and sufficient cause **and on** the basis of unproven charges **/System** File 1-16 (45)/D- E-306-121.

(2) The claimant's record be cleared of the charge placed against him in accordance with Rule **27(f).**"

OPINION OF BOARD: Claimant, a foreman, was assigned a walkie-talkie radio which he left in his truck on Carrier's property over the weekend. When he returned to work on Monday morning, the radio was missing. Following investigation, **Claimant** was found guilty of negligence on the ground that he had neglected to take the necessary precautions to prevent loss of the radio. **He** was, accordingly, assessed a **45-day** suspension against his record, with the injunction that he "comply strictly with the company's rules and special instructions."

One of the witnesses who testified at the hearing stated that Claimant left the radio on the dash of his truck; another witness and Claimant himself testified that the radio was left on the seat. The **customary** practice was to hide the radio under the driver's seat of the truck.

In view of the testimony, including Claimant's acknowledgment that he failed to take steps to conceal the radio, we find that Claimant was negligent and that the discipline meted out was not **unreasonable** or arbitrary under the circumstances. We will deny the claim.

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 approwed June 21, 19%;

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

The **Agreemen**t was 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 15th day of June 1979.

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THIRD DIVISION
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