

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22488
Docket Number SG-22431

William M. Edgett, Referee

PARTIES TO DISPUTE: (**Brotherhood of Railroad Signalmen**
(**Burlington Northern Inc.**

STATEMENT OF CLAIM: **"Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern:**

On behalf of Mr. W. R. Moore, **Signalman, in** Signal Crew #131, for reimbursement of five days compensation, when Carrier **violated**, Rule 54-C of the current Signalmen's Agreement and **also**, assessed him **harsh** and unfair discipline of five days actual suspension."
/General Chairman's file C-77-115. Carrier's file SI-20 5/10/77 A.]

OPINION OF BOARD: **Claimant, another Signalman, and an Assistant** Signalman were assigned to change out wires between the signal head and a **junction box**. After completing the work they failed to make tests **which** are required by the rules.

Claimant and the other Signalman were both found to be at fault. **Claimant was** given five days actual suspension. The other **Signalman was given only a reprimand**. Carrier based its disparate treatment on **the fact that Claimant was** the senior **employee** and was in charge.

The record shows that the **supervisor** had not placed Claimant in charge of the work. At the investigation **claimant** said **he** was senior and "supposed" he was in charge. **Notwithstanding** what Claimant "supposed" there is no basis in the record for finding that **Claimant was in a leading position**. He and the other **signalman were** equally responsible for the improperly done work and should have received equal discipline. There **were no circumstances**, other than Claimant's **seniority**, to base a **different** measure of discipline upon.

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 **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; end

That the discipline was excessive.

A W A R D

claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, **Illinois**, this **24th** day of August **1979**.