

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22701
Docket Number TD-22338

Robert A. Franden, Referee

(American Train Dispatchers Association
PARTIES TO DISPUTE: (
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association
that:

(a) The Louisville and Nashville Railroad Company (hereinafter referred to as "the Carrier"), violated the current effective Agreement **between** the parties, Article IX thereof in particular, by its action in **assessing** discipline in the form of a reprimand, effective by **letter** of Superintendent Jones dated July 29, 1976 addressed to Mr. J. P. Barr as the result of investigation held on July 14, 1976.

(b) Claimant Barr shall have: Record cleared of the charges, reprimand withdrawn from the records, be compensated for the net wage loss, be fully reimbursed for all out-of-the-pocket expenses incurred by him because of this investigation and any payments made by him to witnesses who gave testimony in this investigation.

OPINION OF BOARD: Claimant was charged with responsibility **in** connection with unnecessary delay to Train 721 at Howell Yard, Evansville, Indiana on June 4, 1976. The Carrier claims that the alleged delay occurred due to claimant's failure to timely issue the necessary train order.

At **the** outset the Organization raised a series of procedural issues which we **find** to be without merit. We will consider the merits of the case.

In order for the Carrier to prevail in this matter it is necessary that it show that the actions of the claimant **were** the proximate cause of the delay of the train. We **must** assume that the delay complained of was the stop at Hybrid Inn made by **Train 721** because the train **maintained** schedule on June 4, 1976. The record does not support a finding that the **claimant** was responsible for a delay to Train 721. The Carrier has simply failed to establish the critical nexus to support a cause and effect relationship.

Even though a reprimand is a minor form of discipline it cannot be let stand absent evidence of probative value sufficient to support the charge.

We will sustain the claim to the extent that the reprimand be withdrawn. We find no support for the balance of 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 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 Agreement was violated.

A W A R D

Claim sustained in part and denied in part **in** accordance with this Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.

