

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23263
Docket Number SG-23378

Carlton R. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Southern Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway System:

On behalf of Signal Maintainer M. E. Mitchell, headquarters Inman Retarder Yard, Atlanta, Georgia, account being suspended for 90 days because of an investigation held January 10, 1979, in Atlanta."
(General Chairman file: SR-105. Carrier file: SG-376)

OPINION OF BOARD: The claimant appeal from a ninety-day suspension resulting from the charge that he was Improper and negligent in the performance of his duties as third-shift signal maintainer on December 25, 1978. As a result of his alleged negligence, the yard was down for approximately five hours.

The evidence produced by the Carrier at the claimant's hearing was to the effect that four relays had been plugged into incorrect locations, and one relay was found to have a defective key which would permit it to enter its socket in a rotated position. It was rotated in its socket and, therefore, the contacts were not complete with the circuitry. When these problems were discovered and corrected, the automated switching system functioned properly.

The claimant alleges that the Carrier had prejudged him guilty because the notice of his hearing included the following paragraph:

"There is no way you could have tested out this system as you reported, because the machine would not have accepted the code, and you would have known the trouble."

We do not believe that this admittedly strong language on the part of the charging officer established that the Carrier prejudged the guilt of the claimant. The charging officer was a witness but not the hearing officer, and the decision was made and reviewed for the Carrier by persons other than the charging officer.

A review of the transcript of the record indicates that sufficient evidence was produced to support a decision that the claimant had been adequately instructed in his duties and that he did not perform the duties adequately which was the cause for the failure which kept the yard held up for approximately five hours.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 not violated.

A V A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By order of Third Division

ATTEST: *A. W. Paulsen*
Executive Secretary

Dated at Chicago, Illinois, this 15th day of April 1981.