

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23380  
Docket Number SG-22990

James F. Searce, Referee

Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE:

Southern Pacific Transportation Company  
(Pacific Lines)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company:

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the agreement, effective October 1, 1973, between the Company and the employees of the Signal Department represented by the Brotherhood of Railroad Signalmen and particularly that part of Rule 59(a) stating 'an employee....shall not be disciplined or dismissed without a fair and impartial hearing.'

(b) Mr. R. C. Gollen be reinstated to his position of General CTC Maintenance Technician with all rights restored and be allowed payment for all time, including overtime, lost since his dismissal." (Carrier file: 011-181(G))

OPINION OF BOARD: Claimant entered Carrier's service as a Signalman in 1967. He was on military leave from 1968 until 1972, remaining in service with Carrier thereafter until his dismissal. On June 9, 1978, Claimant was working as a flagman at a grade crossing in order to protect a maintenance of way crew at that locale. Apparently such work required that the automatic crossing gates and flashing lights be deactivated, thus necessitating that the Claimant operate such system manually (by a "Knife Switch") as needed to control motor vehicle traffic in conjunction with train movement. The Q&A is charged with failing to attend to such duties resulting in the collision of a train with a vehicle passing over the crossing. The Claimant was charged with violations of Rules 801 and 802 reading, in pertinent part, respectively:

"Employees will not be retained in the service who are careless of the safety of themselves or others,..... or conduct themselves in a manner which would subject the railroad to criticism...."

And

'Indifference to duty, or to the performance of duty, will not be condoned.\*

As a result of such hearing, he was dismissed from service on June 23, 1978. The Claimant was subsequently reinstated on August 16, 1978; the Claim herein is thus limited to whatever wages and rights may have been lost during the period of time he was out of service.

The Organization's defenses are technical or procedural in nature, and do not challenge the fact-situation in any effective manner. We are led to the conclusion that the Claimant bore responsibility for the accident and that the Carrier was within its rights to effect discipline. We find no basis to affirm any procedural claims that would disturb the Carrier's actions in this case.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

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