

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23842  
Docket Number TD-23772

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association  
(Southern Railway Company

STATEMENT OF CLAIM: **Sixty** (60) days suspension imposed on **Train Dispatcher** T. J. **Glissen** following hearing on August 28, 1978 be removed from his personal record and request that he be compensated for all time lost.

OPINION OF BOARD: On August 23, 1979, the Claimant was notified of an investigation for running a train at a time when the track had not been cleared. Subsequent to the investigation, the **Claimant** was suspended for **sixty** (60) days.

A Track Supervisor (Presley) had permission to occupy a designated track, and that permission was noted in a log book and by "plugs" in the **control-ling** points on the console, to assure that protection is afforded to the **individual** who is occupying the track.

Nonetheless, a **C&O** train was allowed to proceed on the track (through the **limits** held by Presley) by the Claimant, even though the track had not been released by Presley. Presley indicates that he made several attempts to contact the Dispatcher to obtain additional time on the track, which was to expire at 6:01 p.m., however, he was unable to make contact.

As we read the record as a whole, we do not conclude that the Claimant seeks **full** exoneration, and he seems to recognize that there was a degree of negligence on his part. Nonetheless, it is urged that the discipline imposed was unrealistic under the circumstances, especially when one recognizes that the Dispatcher relies primarily on mechanical protection afforded by the 'plugs' blocking the control levers to **"...prevent** the entry of conflicting movements into the protected **area."** However, the plugs do not indicate the number of obstructions in the area, so that there is some reliance upon written records and memory involved.

Under all of the circumstances, the Board is of the view that the discipline imposed here was excessive, inasmuch as the Board concludes that the Claimant's action was neither a deliberate dereliction or gross negligence. Accordingly, we will reduce the suspension to thirty (30) days.

That the **parties** waived oral hearing;

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

That the discipline **was excessive.**

## A W A R D

**Claim** sustained in accordance with the **Opinion**.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

.. Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago**, Illinois, this **26th** day of March 1982.

