

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23914  
Docket Number SG-23450

Joseph A. Sickles, Referee

**PARTIES TO DISPUTE:** { Brotherhood of Railroad Signalmen  
{ Burlington Northern Railroad Company

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

Burlington Northern has **unjustly** dismissed Mr. W. D. Campbell from service and in so doing violated Rules 54-C and **56** of the current **Signalmen's** Agreement.

Carrier should now be required to reimburse **Mr.** Campbell for all time lost and clear his personal record of any reference to the investigation leading to his dismissal."

(General Chairman's File B-79-195 Carrier File SI-20 6/5/79)

**OPINION OF BOARD:** Claimant was notified of an investigation concerning responsibility in connection with a collision. Subsequent to the investigation, the Employee was dismissed from service, but was reinstated **some** fifteen months later.

We are unable to find that the charge was defective and thus we will **consider** the dispute on its merits. Further, we fail to find that the Employee made any proper basis for the production of a witness. A Carrier may not deprive an Employee of a means of defending himself nor may it treat an accused in a devious manner. But there is nothing of record here which suggests such a scheme by this Carrier.

Limiting our review to matters properly before us, we find the record to be rather clear. **There** was a collision on December 20, **1978**. Faulty equipment led, Or contributed, to the accident, and the equipment **was** under the **control of** the Claimant. Further, the evidence supports a conclusion that Claimant was less than diligent in his maintenance of the equipment.

The Employees have raised certain speculation, but have produced nothing of record to warrant resolution of the dispute based upon that speculation.

If the evidence supports the Carrier's conclusion of guilt, it is not incumbent upon us to substitute our judgment.

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 **Employee** 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.

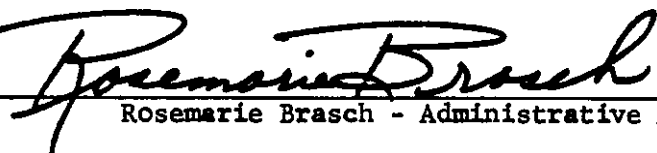
A W A R D

Claim denied.

**NATIONAL RAILROAD** ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
**National** Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 8th day of June 1982.