

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24066**
Docket Number **MM-24087**

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (**Brotherhood of Maintenance of Way Employees**
(**Seaboard Coast Line Railroad Company**

STATEMENT OF CLAIM "Claim of the System **Committee** of the Brotherhood that:

(1) The Carrier violated the Agreement when it suspended Welder Helper **H. L. Robertson** and Laborer **A. Golden** from service for two (2) hours on ~~June 12~~, **1979** without benefit of a hearing (System **File C-4(13)-HLR/AG; 12-39(80-8) J**).

(2) The **claimants** each be allowed two (2) hours of pay at their respective **straight-time** rates because of the aforesaid violation."

OPINION OF BOARD: **Claimants** were employed at **Carrier's** Pail Welding Plant with assigned hours of **3:30 P.M. to Midnight**. On **July 12, 1979** Claimants, according to Carrier, **did not report** until after the safety rule of the day had been read and the work was underway. Carrier **asserts** that the men were over **six minutes** late, whereas Petitioner claims **that** they were "over two minutes" late. The two employees **were** assigned to work at about **5:30 P.M.** and were read the safety rule at that time. The Claim herein was triggered by **their** loss of two hours' work.

Petitioner **maintains** that the two employees were disciplined by being withheld from work without benefit of an investigation and hence their Claims are justified. Carrier, on the contrary, denies that there was indeed any discipline **involved and** states that the two men were treated similarly to other employees reporting late at the **particular** facility. Carrier **explains** that the men normally worked on an automated assembly line **approximately one-half mile long**. On the day in question the Foreman had to **arrange** the forces present and **supervise** the start-up on the **line** in a timely fashion. He **did** not have **time** to stop and re-arrange the forces on the **line** when late employees straggled in.

An **examination** of the record reveals no evidence to contradict the **Carrier's** position that the Claimants were **treated** consistently with other employees reporting for work late at the **Welding Plant**. **Further**, Petitioner's **reliance** on an ambiguous statement by the Foreman involved is not **persuasive, particularly** since it contradicted an earlier version of the same **Incident** authored by the same **supervisor**. At best, the two statements are contradictory, from the Union's point of view. **In sum**, there is no **significant** evidence to indicate that the Claimants **were** indeed disciplined. On the contrary, they **were** treated consistently with other employees and that treatment cannot be considered to be punitive. The fact is that the **two** men did not meet their obligation to report **to work on time and suffered normal consequences of that** deficiency.

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

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago, Illinois**, this 14th day of **December 1982**.

