

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24090**
Docket Number SG-23423

Joseph A. 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 Company, et al.:

On behalf of D. **H. Hartis**, Signal Maintainer, who was suspended April 1 through June **29, 1979** for allegedly making false DOT inspection report and failing to comply with **instructions** about the switch fouling involved in both items." (General Chairman file: SF-119) (Carrier file: SG-403)

OPINION OF BOARD: **The** Claimant was notified to attend **an** investigation on a charge that he had submitted false information concerning certain inspections and tests; as well as **an** asserted failure to comply with certain direct instructions.

Subsequent to the investigation the Employee **was** notified that he had been found guilty and was suspended for ninety (90) days.

We have reviewed the record **in** its entirety and have found ample evidence which indicates that the Claimant did not promptly perform certain tests and that his performance of duty was lacking.

It is not **incumbent** upon us to substitute our **judgment** for that of the Carrier if there is evidence to support the finding of guilt and we find such evidence here. In addition, it is not **incumbent** upon us to reduce the punishment assessed unless we find it to be arbitrary and/or capricious and similarly, no such **finding** is made in this case.

FINDING S: 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.

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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 5th day of January 1983.

