

4# S.D.P.
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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24246
Docket Number SG-24402

Ida Klaus, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad **Signalmen** on the Norfolk and Western Railway Company:

That Leading Signaller **W. P. Bath** be paid for all **time** lost due to five day actual suspension assessed for his alleged violation of Carrier Safety Rules **1041** and **1002** on the dates of June **5th and 18th, 1980.**"

OPINION OF BOARD: The Claimant was assessed a five-day suspension as a penalty for violation of Safety Rules by failure, while at **work** as a **Lead** Signal Maintainer. to **wear** a hard hat on **two** occasions and a shirt on a third occasion.

The Organization contends that the penalty was unjustified, because the hard hat rule was rendered "**almost** inoperative" through "loose enforcement" and the shirt requirement did not exist.

We find clear **support** in the record for the hard hat charge. The **Claimant** has admitted that he failed to wear his hard hat in **knowing** disregard of the rule and of his Supervisor's direct instructions.

We do not, however, find sufficient support **in** the record to sustain the charge of rule violation with respect to the **failure** to wear a shirt. The rule the Carrier relies upon requires **employees** to be "**suitably** clothed" for safe performance of duties and specifically regulates the kind of clothing that **may** safely be worn. In **our view**, the regulation as to shirts specifies what is the suitable way a shirt can **safely** be **worn** at work. It does not affirmatively require that a shirt actually be worn as a safety measure.

The sole issue remaining is whether the five-day penalty for the violation of the hard hat rule alone was fair and **reasonable** on the evidence shown. We conclude that it **was** not. While affirming, once again, the compelling **importance** of **compliance** with safety rules, **we** nevertheless believe, in view of the Claimant's. years of service without any evidence of prior discipline, that a three-day suspension is appropriate. Our Award will so provide.

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 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 23rd day of March 1983.

