

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24284  
Docket Number SG-24261

Martin F. Scheirman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Southern Pacific Transportation Company (Pacific Lines))

STATEMENT OF CLAIM: "Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Pacific Lines):

On behalf of Signal Foremen C. G. Barter, who was suspended ten days July 14 through 23, **1980**, and Signal Maintainer G. A. **Widmann**, who was suspended five days July **14** through **18, 1980**, for pay for time lost, and that all mention of this matter be **removed** from their records." (Carrierfile: **MofW-A-TUC-O-15**)

OPINION OF BOARD: At the **time** this dispute arose, **Claimant**, C. G. Barter, had been a Signal Foreman with Carrier for approximately seven years. Claimant, G. A. **Widmann**, had been a Signal Maintainer with Carrier for approximately five years.

On April **9, 1980**, both Claimants were dispatched to repair Signal **7344A** at Carrier's yard at **Yuma**, Arizona. On May 1, **1980**, Signal Operations Manager, W. W. Graves, inspected the signal. He noted that it displayed green and red aspects when it should have displayed only yellow and red aspects. Graves corrected the problem by rewiring the signal, which apparently had been incorrectly wired.

As a result of this **incident**, Claimants were required to furnish written statements concerning their conduct on April **9, 1980**. Subsequently, a formal investigation was conducted on June 24, **1980**. Based upon the results of that investigation, Claimant Barter was suspended for ten (10) days, from July **14** through July 23, **1980**; Claimant **Widmann** was suspended for five (5) days, from July 14 through July **18, 1980**.

The Organization contends that Carrier violated Rule **59(a)** when it suspended both Claimants. That rule **requires that** an **employee** way not be disciplined without a fair and impartial investigation during which the **employee** may be represented. According to the Organization, Carrier violated Rule **59(a)** when it required Claimants to submit written statements prior to the formal hearing **held** on June 24, **1980**. These statements were obtained without the presence of Organization representatives. Thus, in the **Organization's** view, Carrier conducted an unfair investigation by denying **Claimants** an opportunity to have representation when the written statements were submitted.

As to the merits, the Organization contends that Claimants were required to perform their work without circuit plans and without specific instructions from supervisory **personnel**. In its view, any inadvertent error committed by Claimants in wiring the signal was the fault of Carrier and not the Claimants

themselves. In fact, the Organization points out that Claimant rewired the signal in the same manner that they discovered it. According to the Organization, the **Claimants** used the information available to them in the performance of their duties and they should not now be **penalized** because Carrier failed to furnish them with adequate **instructions**.

For these reasons, the Organization asks that the claim be sustained. It seeks the restoration to Claimants of all lost wages and benefits as a result of their **suspensions**, as well as the **removal** of any mention of this incident from their records.

Carrier, on the other hand, asserts that it properly imposed the ten and five day suspensions on Claimants Baxter and **Widmann**, respectively. First, Carrier contends that the written **statements** required of Claimants did not violate Rule 59(a) of the Agreement. **This** is so because that **statement** did not form the basis of any discipline which Carrier later imposed. Rather, Carrier insists, discipline was imposed only after a fair and impartial **investigation** took place wherein **Claimants** were fully represented by the Organization.

As to the **merits**, Carrier argues that **Claimants** improperly **failed** to test the signal after they allegedly **repaired** it. Furthermore, Carrier points out that a signal diagram was housed in a relay box near Signal 7344A. According to Carrier, if **Claimants** had consulted the diagram, they would have realized that the signal, when properly wired, should display only a yellow or red aspect and not the green or red aspect which resulted **from** Claimants' rewiring of it. Therefore, Carrier concludes that Claimant's repair of Signal 7344A was negligent. It asks that the **claim** be denied.

The record evidence reveals that Claimants clearly acted improperly in **rewiring** Signal 7344A on April 9, 1980. First, **Claimants** knew or should have known that a circuit diagram could be found near the signal. **This** is particularly true of Signal Foreman Barter who had occupied a position of authority with Carrier for **seven** years prior to this **incident**. In fact, neither Claimant even attempted to look for a circuit diagram which, if discovered, would have instructed Claimants how to properly wire the signal.

**Second, the** record also indicates that Claimants did not properly test the signal after they had repaired it. Carrier had a legitimate right to expect that Claimants, particularly Signal Foreman Barter, would have conducted the **same** tests which Signal Operations **Manager** W. W. Craves performed when he discovered the error on May 1, 1980. Simply stated, then, Claimants were negligent in their repair of Signal 7344A on April 9, 1980.

We reject, also, the Organization's procedural **argument**.

There remains the question of the appropriateness of the penalty imposed upon Claimants. It appears to this Board that Carrier may hold a Signal Foreman to a higher standard of conduct **than** a Signal Maintainer. A signal foreman is **presumed** to have greater knowledge and authority in the performance of his or her work than is a Signal Maintainer. **Moreover**, a Signal **Foreman** is specifically charged with conducting "thorough tests to insure that apparatus and circuits are properly functioning" (Rule M 623 Of the Rules and Regulations for Maintenance

of Way and Structures). That rule does not pertain to Signal Maintainers. Finally, we note that Signal Foreman Baxter worked for Carrier five years longer than did Signal Maintainer Widmann. Accordingly, we **conclude** that ~~the~~ penalty imposed upon Signal **Foreman** Baxter was appropriate while the five day suspension imposed upon Signal Maintainer **Widmann** was excessive. In our view, a letter of reprimand to **Signal** Maintainer **Widmann** is appropriate **under** the facts of this case.

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 violated.


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 - Administrative Assistant

Dated at Chicago, Illinois, this **31st day** of March 1983.