NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24428
THIRD DIVISION Docket Number SG-24386

Robert Silagi, 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:

On behalf of Leading Relay Repairman J. J. Draper for six hours' at the prevailing Leading Relay Repairman's rate of pay ($63.96 total) account deprived of employment November 3, 1980 without an investigation in violation of Rule 54-A of the Signalmen's Agreement." (General Chairman file: SS-81-235. Carrier file: SI-81-23B)

OPINION OF BOARD: Claimant's work day began at 7:15 A.M. On the day in question he telephoned his shop manager to advise that he Sad forgotten to set his alarm clock the night before and that he would report for work as soon as possible. Claimant was told not to report for work. Claimant demands six hours' pay on the theory that the Carrier violated Rule 54A by disciplining him without an investigation. Rule 54 - Investigations and Appeals, states in pertinent part:

> "A. An employee in service sixty (60) calendar days or more will oot be disciplined or dismissed until after a fair and impartial investigation has been held."

The Organization's argument is that the manager's refusal to permit Claimant to work the remainder of his shift constitutes "discipline" within the meaning of Rule 54A and therefore entitle8 Claimant to an investigation, citing Third Division Award 7210 - Cluster. The Carrier denies that "discipline" is involved but relies on Rule 8A which sets the work day at eight hours. Said Rule, the Carrier argues, unambiguously declares eight hours to be the work day and nothing less. Since Claimant failed to appear at the starting time of his assignment he could m-t perform a full day's work. The Carrier argues that Claimant may not work only that portion of the day for which he made himself available, relying upon Second Division Award 7838 - Marx. Moreover, the Carrier states that the shop manager had held four meetings with the entire shop force about tardiness advising all employes that he would not tolerate tardiness. At said meetings Rule 702 of the Maintenance of Way Department, to which Claimant is subject, was quoted to the effect that "Employees must report for duty at the designated time and place." The Carrier also states that it has not allowed employes to work unless they are on the job at the scheduled starting time.

it is beyond question that an employe must report at his scheduled starting time absent approved advance notice or circumstances which are beyond his control. Oversleeping is not such a circumstance. It is also axiomatic that a Carrier has the right to control tardiness. In this case all employes

had received repeated warnings about tardiness and it is undisputed that a practice had been enforced of not permitting tardy employes to work a partial day.

The same issue has been adjudicated in the Third Division (Award 22904 - Scheinman, Award 23294 - LaRocco, Award 22287 - Weiss, Award 21598 - Smedley), wherein the Board upheld the Carrier's right to withhold work from an employe on the day he is tardy. An employe who is late without approval or good reason is in a tenuous position to demand the right to complete his assignment. Given the surrounding circumstances of this case we are convinced that the Carrier's action was not disciplinary in nature. The claim will therefore be denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Brssch
Rosemarie Brssch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.