NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24473

THIRD DIVISION Docket Number MW-24379

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Chesapeake and Ohio Railway Company

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

(1) The ten (10) days of suspension imposed upon B&B Foreman Roger L. Fraley for alleged 'responsibility in connection with leaving the job site prior to end of tour of duty and, thereby, falsifying time sheets for approximately two hours for yourself and subordinates at Newport, Kentucky on September 11, 1980' was without just and sufficient cause, unwarranted, and on the basis of unproven charges (System File C-D-1020/MG-2917).

(2) The claimant's record shell be cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: An investigation was held on October 8, 1980 to determine whether Claimant left the job situs prior to the end of his tour of duty on September 11, 1980 and falsified time sheets for himself and his subordinates. He was working as the Acting Foreman on B&B Force 1503 with assigned work hours of 7:00 A.M. to 4:30 P.M. at the time the asserted occurred. Based upon the investigative record, Carrier concluded that he had falsified the time sheets as charged and suspended him from service for ten (10) days. Said suspension ran from November 3, 1980 through November 14, 1980.

In defense of his position, Claimant contends that it was his understanding that anytime he worked overtime he would get time off at the end of the week in lieu of overtime payment. He avers that Supervisor Julian Foster told him on September 11, 1980 to continue the practice when he called this official to report an accident, and argues that he had no intention of defrauding Carrier. He asserts that he entered the time forms in a manner consistent with past practice and thus, his actions were not improper.

Carrier contends that no amendments were made to the time forms to reflect that Force 1503 was leaving early on September 11th and as such, it was compelled to pay the affected employes for the entire day. It asserts that while Claimant noted that it was the practice for employes to take time off for overtime work, he also acknowledged that it had not been formally approved as practice. It avers that the administrative records do not show that he was given permission by Supervisor Foster to continue the alleged practice since records do not show that he called this official to report a purported accident. It argues that his own admission that he left at 2:15 P.M. is dispositive proof that he falsified the time sheets and discipline was appropriate under these pointed circumstances.

In our review of this case, we agree with Carrier's position. We find

no evidence that Claimant was told by Supervisor Foster to continue the alleged practice of working a make up time schedule or any evidence that he communicated with this official on September 11, 1980. We do find that he admitted he was responsible for keeping records end making the prescribed reports for employes under his charge, end importantly that the make up schedule was not approved. In fact, he admitted et the investigative hearing that he had not received a letter approving this type of work schedule.

In light of these admissions, which indicate that he was not permitted to work a make up time schedule on September 11, 1980, we are compelled by the evidence of record to affirm Carrier's disciplinary determination. In Third Division Award No. 20182, which conceptually parallels this case, we held in pertinent part that:

> "Claimant herein, a foreman, was charged with violation of Rule O-l of the Rules of the Operating Department for allegedly improperly reporting on the payroll, end being paid for time not actually worked for November 19, 1971."

The judicial reasoning of this decision Award is controlling. We will deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record end all the evidence, finds end holds:

That the parties waived oral hearing;

That the Carrier end the Employee involved in this dispute are respectively Carrier end 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; end

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 et Chicago, Illinois, this 14th day of July 1983.