

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24477  
Docket Number SC-23789

Carlton R. Sickles, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE:

((Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalman on the Seaboard Coast Line Railroad Company:

On behalf of Signal Maintainer E. C. Stewart, suspended from service for thirty (30) days, due to an investigation held in Tampa, Florida on May 31, 1979, with a request that **claimant** be compensated for all lost time and all rights and privileges restored while on suspension."

OPINION OF BOARD: The claimant, after hearing, was suspended for thirty days because in repairing the damaged signal, he replaced the damaged equipment with the wrong piece of equipment and, in turn, improperly wired the replacement **equipment** upon installing it.

The claimant first objects to the manner **in** which the hearing was held because the signal supervisor acted in the dual capacity of **investigating** officer and witness **at the** hearing. A review of the transcript indicates that the hearing was held in an orderly manner and that **it** was fair and impartial. It **is** not unusual for a party to **perform** a dual role in the process of these hearings, all with the objective of bringing out the facts so that a proper judgment can be made (See **Awards** 8367 and 20859). This Board will not support this allegation.

**The** Claimant also alleges that the Carrier prejudged his guilt. Again, a review of the transcript does not support this allegation and it will be denied.

Claimant further alleges that the Carrier failed to meet the burden of proof that he had, **in** fact, improperly wired the device which he had installed **in** the signal **some** seventeen months prior to the time that the signal worked improperly. **From** the record, it appears that the essence of the problem was that when the Claimant found that the signal had been damaged, since he did not have the appropriate replacement part, he used a substitute part which **ultimately** malfunctioned. The **Claimant** admitted that he had used the wrong part as a substitute but alleged that he had wired it properly and, therefore, it would not have malfunctioned. The Claimant relies heavily on the fact that so much **time** elapsed from the time when the device was installed to the time that it malfunctioned which could have afforded the opportunity to those **employees** who substituted for him when he was away from his assignment to have done **some** wiring with respect to this signal.

Claimant particularly objects to certain information not being made available to him by the Carrier during the course of the hearing. Apparently, the Organization used **some** of this material later but has not been able to provide

any light as to whether any substitute for the **Claimant** had, in fact, worked on this pole.

**There** appears to be sufficient evidence in the record which, if believed, supports the proposition **that** it was the negligence of the Claimant which caused the malfunction albeit seventeen months after the date of installation. The defense raised by the Claimant, however, **seems** to be more conjecture than **factual**. **The underlying basis** for the **determination of** the **guilt** on the part of the Claimant is that an improper piece of equipment was installed in the signal, which was **subject** to a malfunction which might have served the emergent need of the **moment**, but should have been replaced as **soon** as **possible** which the Claimant did not do or provide for.

**The** rules of operation with **respect to** those functions of the Carrier which involve the safety of personnel **using** the system as well as the protection of the equipment involved is an extremely important matter and these rules should be followed meticulously. Unless they are, it is a disservice to all the **employees** of the Carrier including the Claimant.

For the reasons cited above, the **claim** will 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 **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.

A W A R D

Claim denied.

NATIONAL FAIR ROAD 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 **14th** day of **July 1983**.

