

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24557
Docket Number SG-24525

William S. Coleman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri-Kansas-Texas Railroad company:

On behalf of M. A. **Mercado** for all time lost (pro rata and time and one-half) and with all rights restored, account ten-day actual suspension January 2 - 11, 1981, and ten-day deferred suspension, following investigation concluded on December 26, 1980." (Carrier file: 2619-70)

OPINION OF BOARD: The record reveals that Claimant employed as an Assistant Signalman was assessed discipline of ten (10) days actual suspension from service and ten (10) days deferred suspension for alleged violation of Carrier rules regarding an eye injury Claimant sustained while grinding rail.

The Carrier contends that Claimant failed to report the accident in a timely fashion as required and did not use proper safety precautions when he failed to protect his eyes with goggles while grinding rail.

The Organization maintains that Claimant was not told that his work assignment would require goggles and a timely accident report was not filed by the Claimant because he believed he had removed the metal from his eye at the time of injury.

After a careful review of the record the Board notes that Claimant used poor **judgement** in failing to obtain safety goggles prior to attempting the rail grinding assignment. Claimant should not have attempted to grind rail without taking the necessary precautions as required to protect his eyes from injury; but in view of the circumstances in this case we will reduce the suspension to five (5) days.

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;

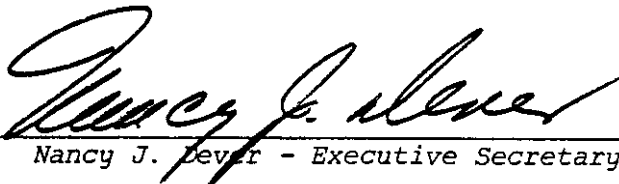
That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

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: 
Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1983.

