

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24669
Docket Number SG-24364

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the **Southern** Railway Company, et al:

On behalf of **Signal** Maintainer **J. E. White**, Headquarters 14th Street Interlocking **Tower**, Birmingham, Alabama, for pay for all time lost while suspended, and that his record be cleared of all charges, because he was unjustly dismissed for 30 days commencing October 20, 1980, account of investigation held October 2, 1980. (General Chairman file SR-201. Carrier file **SG-476**)

OPINION OF BOARD: Claimant **J. E. White** is a Signal Maintainer headquartered at the 14th St. Interlocking **Tower in** Birmingham, Alabama. Claimant was charged with **violation** of General Instructions No. G-5 of the Communications and Signal Department Rules and Standards Manual, Vol. 1, and of Rule 236.4 of the Standards and Instructions for Railroad Signal Systems, set by the Department of Transportation FRA.

Claimant was alleged to have known about a jumper being placed on a relay and **an** interlocking plant involving the **L&N** Railroad and leaving the jumper on the relay overnight. The **L&N** Railroad decided to remove a frog in the interlock. **This** meant that in order to keep **Southern** trains moving through the interlock, certain relays that control traffic would have to be bypassed with jumpers. Carrier contends that leaving these jumpers in place overnight was a violation of the rules. As a result, trains moved over the track without protection from broken rails or other signal protection for a length of 59 feet of Southern mainline track. Claimant was found guilty as charged and assessed a 30-day suspension.

The Organization makes two major arguments:

(1) Carrier delayed charging Claimant for an unreasonable length of time after it became aware of what had taken place.

(2) Carrier officials ordered the jumpers placed on the relays. They knew full well what had taken place and it seems ludicrous to discipline Claimant for something that he was directed to do by Company officials.

Carrier contends that Claimant is the Signal Maintainer in the **district** and he is responsible for what takes place in his territory. He violated the safety rules and a 30-day suspension is appropriate. This Board, according to Carrier, has no authority to modify a penalty unless it is arbitrary, capricious or unreasonable.

This Board has reviewed the record of this case and finds that claimant was afforded a full and fair hearing and that the delay of a **month** in charging him had no negative impact on his ability to mount a defense. The Board, however, has not been able to find evidence in the record to support Carrier's accusation that Claimant was guilty of an act that would justify a **30-day** suspension.

Carrier officials planned and directed that jumpers would be used. Three Maintainer's were involved in this incident, not just Claimant. It **is** clear that the objective of the Supervisor, as **well** as that of the three Maintainers involved, was to make sure that Carrier trains were not unduly delayed. It is **also** clear **from** the record that some of **Carrier's** Supervisors did not think that a rule violation had taken place. The **DOT** did **not** cite **Carrier** for any infractions as a result of what took place here.

It is the **judgement** of this Board that Carrier acted improperly in this case and that if discipline was deserving in this instance, it should have clearly included the Supervisors involved and the other two Maintainers. If discipline were justified in this situation, Carrier contributed to the rule infraction by **allowing the** jumpers to **be** used initially and not **following** up on their continued use. We shall therefore, sustain this claim.

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 #is** 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

The Carrier improperly disciplined Claimant.


That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984