

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24878
Docket Number CL-24727

Tedford E. Schoonover, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9650)
that:

1. Carrier violated the effective telegraphers' agreement when, following an investigation on June 1, 1981, it dismissed Leverman Gerald J. Grohn from service effective June 3, 1981;

2. Carrier shall now return Mr. Grohn to service with his seniority and all other rights unimpaired and shall compensate him for all time lost, including any lost overtime potential; and shall further make premium payments appropriate to maintain Travelers Group Policy GA-23000 and Aetna Group Policy GP-12000, and shall clear Claimant's record of the charges placed against him.

OPINION OF BOARD: The charge against Claimant was issued on May 29, 1981 by N. V. Spano, Chief Train Dispatcher as follows:

"...for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your failure to comply with the Train Dispatchers' orders at 4:50 PM on May 28, 1981 to block No. 1 Northward Main Track at Hayford Interlocking while you were on duty at Hayford Interlocking by allowing BRC Engine 530 to enter No. 1 Northward Main Track at 5:07 PM on May 28, 1981 without authority from the Train Dispatcher resulting in the operation of opposing traffic on No. 1 Main Track, BRC Engine 530 Northward and N&W Engine 1772-1550 Southward between Hayford Interlocking and 55th Street Interlocking."

Hearing was held on June 1, 1982 and on the following date claimant was notified of his dismissal.

Claimant's service with the Carrier began on August 13, 1977. On the date of the incident under review he held a regular assignment as leverman at Hayford Interlocking Tower. During the hearing he admitted failure to follow instructions, standard operating procedures and disregarding orders of the train dispatcher to block the north bound track. His actions allowed Engine 530 to enter the track against the current of traffic without authority from the dispatcher and created an extremely dangerous situation by permitting opposing trains to operate on a collision course. The situation was corrected by intervention of the dispatcher and the trainmaster and an accident averted.

During the hearing Claimant admitted knowing that the proper procedure in blocking a track is to use a clip over the switch. He did not do this when he received the order from the train dispatcher but relied on his memory. After his errors had been corrected he was questioned by the trainmaster as to the reason. His answer was that he forgot to call the dispatcher when he put Engine 530 on the Northbound main. This is hardly the kind of responsible action required of a leverman in control of switches guiding the movement of trains.

Evidence adduced during the hearing established that Claimant was knowledgeable of the rules and regulations governing leverman. His actions in this case amounted to substantial violations. The job of leverman is a highly responsible position and detailed rules and regulations are clearly necessary to assure safe train operations. The rules are specific in requiring that the movement of trains or engines against the current of traffic be authorized only by the train dispatcher. The potential danger inherent in Claimant's failure to comply with such established procedures is readily apparent.

The circumstances of this incident clearly show the need for reference during the hearing to applicable rules and regulations. Such reference was needed in the orderly progress of the Carrier's investigation. First was the need to investigate the incident and the Claimant's part therein. Then came the need to determine his responsibility and to investigate whether he complied with or violated established rules and regulations. Such an investigation obviously necessitates step-by-step procedures in order to develop all the facts and arrive at the truth of the matter.

Rule 11 requires that decision on discipline shall be given by a proper officer of the company. In this case such decision was given by the chief dispatcher who has responsibility for hiring and disciplining leverman. Such administrative and supervisory authority clearly gave him the responsibility for signing the disciplinary notice in this case. The fact that his position is subject to a labor agreement is irrelevant to his authority in this regard.

Finally, it is noted Claimant has been the subject of disciplinary action on three separate occasions prior to this case. In one case he was suspended from service for his involvement in an incident similar to this case. A second time he was suspended for reporting late for his assignment and the third time he was suspended when intoxicating beverages were found in the Tower during his tour of duty. With this kind of a past disciplinary record we do not find it unjust or unreasonable that he was dismissed in this case. He received a fair and impartial hearing as required by Rule 11 of the Labor Agreement and the evidence supports a finding that his dismissal was for just cause.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

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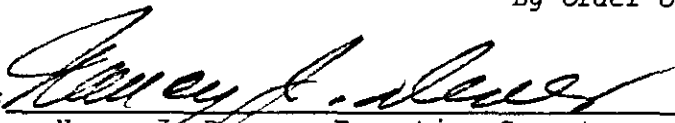
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1984