

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24899
Docket Number MW-25166

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The National Railroad Passenger Corporation (Amtrak)
(Northeast Corridor

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

(1) The fifteen (15) days of suspension imposed upon Foreman J. J. Russo for alleged violation of Rule "A" and "K" on October 21, 1981 was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement. (System Docket 280D).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: By notice dated October 21, 1981, the Claimant J. J. Russo was notified to attend a trial on October 30, 1981 to determine his responsibility, if any, with respect to alleged violation of Carrier's General Rules of Conduct A and K. Claimant was specifically charged with dereliction of duty while assigned as a Gang Foreman on October 21, 1981. On that date at approximately 4:20 AM members of the gang under his immediate supervision were found sleeping in the Third Rail E. T. Locker Room, Penn Station, New York. After the trial was held the Claimant received notice dated November 3, 1981 stating that he was being assessed a fifteen (15) day suspension from service.

A review of the record shows testimony by two Carrier witnesses to the effect that employees under the supervision of the Claimant were sleeping at approximately 4:20 AM on the date and at the locale in question. This evidence is uncontested. The record further establishes that the Claimant was the Third Rail Electrician Gang Foreman on the date in question, hours 11:59 PM to 7:59 AM. The Board must conclude, therefore, that there is sufficient substantial evidence herein to warrant conclusion that the Claimant is guilty as charged. Substantial evidence has been defined as such "relevant evidence as a reasonable mind might accept as adequate to support a conclusion" (Consol. Ed. Co. vs Labor Board 305 U.S. 197, 229). With respect to the quantum of discipline assessed the Board can find no grounds in the record before it to permit it to conclude that the actions of the Carrier were unreasonable or arbitrary.

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;

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

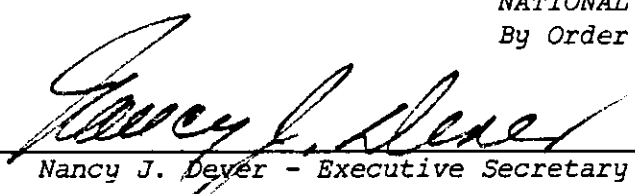
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1984.