

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25279

Docket Number MW-24817

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
(Consolidated Rail Corporation  
(Former Lehigh Valley Railroad Company)

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

(1) The discipline (twenty demerits) imposed upon Foreman C. Nixon for loss of Credit Card #3511 on January 9, 1980 was arbitrary and unwarranted (System Docket 5831.

(2) The twenty (20) demerits referred to in Part (1) hereof shall be removed from the claimant's record.

OPINION OF BOARD: Claimant C. Nixon was a Section Foreman at Carrier's facilities in Oak Island, New Jersey. On January 9, 1980, he requested use of Credit Card 3511 to purchase gas for the section **truck**. Claimant did not **turn** the Credit Card in at the end of his shift. Claimant was advised on January 28, 1980, that he should appear at a hearing to investigate the following charges:

On January 9, 1980, at approximately 11:20 AM, C. Nixon, A Foreman **at** Oak Island, did not perform your responsibilities as an A Foreman with Conrail, as required, in that Credit Card #3511 assigned to you on January 9, 1980, for the purpose of fueling your Section Truck #7034 was lost that day and not returned to Supervisor of Track, S. **Gerwer**, as policy dictates. Also, you could not offer any reasonable explanation as to why Credit Card #3511 was lost.

The hearing was held **as** scheduled. As a result of that hearing, Claimant **was** assessed a penalty of 20 demerits. The Board has reviewed the record of this case and agrees with Carrier that Claimant was guilty as charged and that discipline is appropriate in this instance. We do not agree, however, that a 20 demerit penalty is appropriate. Claimant was careless with the Credit Card. **He** lost it or misplaced it. For this, the penalty of a written reprimand **would** be sufficient. We find no indication in the record to conclude otherwise. We therefore direct that the penalty of 20 demerits be reduced to **a** letter of reprimand.

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. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1985.