

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25285

Docket Number MW-24903

Rodney E. Dennis, Referee

(Brotherhood of Maintenance of Way **Employees**
PARTIES TO DISPUTE: {
(National Railroad Passenger Corporation (Amtrak)

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

(1) The fifteen (15) days of suspension imposed upon Foreman S. J. Duca for alleged violation of Rule "L" was without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement (System Docket 262D).

(2) The claimant's record shall be cleared and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant S. J. Duca held a position as Foreman, Track Inspection, at Paoli Yard, Pennsylvania. Carrier alleges that he left work early on July 3, 1981. In connection with this incident, it charged Claimant as follows:

Alleged violation of Rule "L" of Amtrak Rules of Conduct that part which reads, "Employees shall not...be absent from duty...without proper authority." Specification a) in that you absented yourself from duty without proper authority at approximately 1:30 p.m. on July 3, 1981.

Rule "L" reads as follows:

"Employees shall not sleep while on duty, be absent from duty...without proper authority.*

A hearing into the matter was held on July 23, 1981. As a result of that hearing, Claimant was found guilty and assessed a fifteen (15) day suspension. This Board has reviewed the record and concurs with Carrier that Claimant violated Rule "L" in that he left Company property without permission before the end of his tour on July 3, 1981. We are not, however, in agreement that a fifteen (15) day suspension is an appropriate penalty in this case. The penalty of loss of 15 days' pay is far more severe than the infraction justifies. Carrier could certainly make its point with Claimant and other Foremen at Paoli Yard with a five-working-day suspension. This Board therefore directs that the penalty assessed Claimant be reduced to a five-working-day suspension and that Claimant be made whole for all lost wages beyond the five 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

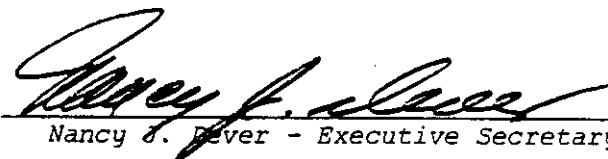
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

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