

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 25332
Docket No. NW-25334

Eckehard Muessig, 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 disciplinary **demotion** of Foreman C. L. McCartney for three (3) months for alleged violation of Rule "E" was arbitrary and on the basis of unproven charges (System **Docket 371D**).

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

OPINION OF BOARD: Subsequent to an investigation, the Claimant was assessed discipline of a three (3) month temporary disqualification from Foreman and Assistant Foreman duties on the basis of a finding that he had played cards on the Carrier's property during **working** hours.

There was substantial evidence adduced during the investigation to support the charge against the Claimant. Accordingly, discipline was reasonably warranted. However, given the extenuating circumstances herein, the discipline is unduly severe. Consequently, we reduce the discipline to one month.

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 15th day of March 1985.