

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25333
Docket Number MW-25360

Eckehard Muessig, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Terminal Railroad Association of
(St. Louis

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

"(1) The disciplinary demotion of Track Foreman R. Thomas and his disqualification as foreman for alleged failure to properly protect track at St. Louis, Missouri on May 12, 1982, was without just and sufficient **cause** and on the basis of unproven charges (System File TRRA 1982-12).

(2) Mr. R. Thomas shall be reinstated as track foreman with seniority as such unimpaired, his record be cleared and he shall be compensated for all wage loss suffered." '

OPINION OF BOARD: Subsequent to a hearing, the Claimant was found guilty of failure to properly protect the track, from which he had removed a rail, by any of the several means available to him.

The Claimant's own testimony, as well as other evidence of record, leads to a finding of guilt, as charged. by the Carrier. In this instance, the Claimant failed to perform his duties as a responsible Supervisor and the Carrier's decision to assess discipline is reasonable.

However, while the Claimant cannot hold others responsible for his failure to properly discharge his duties, as he implied during the investigation, given the circumstances particular to this dispute, we will reinstate the Claimant to his Foreman **position**, but without **any** compensation for time lost while out of that position. This **period** of time should constitute sufficient discipline and provide one last opportunity for **the** Claimant to fulfill his duties in a fully satisfactory manner.

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.