

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 25584
Docket Number m-25747

Stanley L. **Aiges**, Referee

(Brotherhood of **Maintenance** of Way **Employees**

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

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

(1) The disciplinary **demotion** of Track Foremen A. Bielow and his disqualification as track foreman and assistant track foreman for "**alleged** improper reporting of overtime for yourself and **your gang** for Thursday, March 4, 1982" was without just and proper cause and on the basis of **unproven charges** [System **Docket CR-33(D)**].

(2) Mr. A. **Bigelow's** seniority as track foreman and assistant track foreman be restored and unimpaired and he shall be allowed the difference between what he would **have** received at the track foreman's rate and what he was paid in a lower rated position until he is returned to **work** as a **track** foreman with seniority as such unimpaired.

OPINION OF BOARD: A. Bielow was disqualified as a Track Foreman and Assistant Track **Foreman** for his **alleged** improper reporting of overtime for him and his yang on March 4, 1982. No useful purpose will be served by detailing the record **produced** in this case. Suffice it to say that the **record** fully supports a finding that **Claimant** Bielow is guilty of the charges levied against him. Indeed, at the hearing, he freely admitted that he had failed to report time he and his yang worked on March 4, 1982. His actions clearly exposed him to appropriate disciplinary action.

We are convinced that the Carrier's decision to **demote** Claimant Bielow was warranted. However, we are no less convinced that permanent demotion is an excessive penalty. The discipline imposed thus far has served its purpose. Accordingly, we will order his seniority as Track Foreman and Assistant Track Foreman restored unimpaired, but **without** compensation.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1985.

