

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25585
Docket Number MW-25762

Stanley L. Aiges, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(National Railroad Passenger Corporation
(**Amtrak**) - Northeast Corridor

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

(1) The ten (10) work days of suspension imposed upon Machine Operator G. Wright for alleged violation of Rules "K" and "L" was without just and sufficient **cause** and on the basis of **unproven** charges (System Docket 441D).

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

OPINION OF BOARD: Machine Equipment Operator G. Wright was given a **10-day** suspension for his alleged failure to follow the instructions of his Supervisor and leaving his job assignment without authority.

On April 26, 1982, Claimant was assigned, along with others, to construct panel **auxillary** track near Bell Interlocking. His work shift that day was 7:00 p.m. to 5:30 a.m. Claimant arrived at the work site at **approximately** 7:30p.m. That is, close to sunset. Since the **crew's** work is done at **night**, the main installation **area** is lit by large mercury **vapor** lamps. However, it is impossible to provide all work areas with necessary lighting. As a supplement, small telescopic lights and miner's lights are used. The latter are affixed to the **employes'** hardhats. In addition, Supervisors are issued hand-held lanterns.

General Foreman R. C. Taylor was in charge of the track crew that night. He testified that when he approached the tracks with small parts, he noted that Wright was not at his assigned work station. He spotted him approximately 1-1/2 cat poles to the north. Taylor asked Foreman J. Walters if he had given Wright permission to leave the work site. He replied that he had not. Taylor then approached Wright. He asked if anyone had given him permission to leave the **auxilliary** track. He responded in the negative. Taylor told him he was "stopping his time" for leaving work without permission.

Wright does not deny leaving his assignment. He excuses his action on the grounds that his immediate **work area** was too dark, that he felt it was unsafe to be working there, that he wanted to be where he "could be seen by supervision".

A review of the record convinces us that there was no valid reason for Wright to have left his work site on the evening of April 26, 1982. The area may not have been lit especially well. But none of his co-workers left the job for that reason. **None complained** about inadequate lighting. The evidence simply will not support the alleged unsafe working condition. By taking matters into his own hands, Wright exposed himself to disciplinary action. We believe the Carrier had just and sufficient reason to suspend him. **However, we** believe a suspension of five (5) **working** days would have been **more** appropriate. We shall, therefore, reduce the **10-day** suspension imposed to five (5) days and direct that Wright be made whole for the loss of five (5) days' pay at his then current rate.

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. Devisi - Executive Secretary

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

