

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25819
Docket Number MW-25494

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Chesapeake & Ohio Railway Company (Southern Region)

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

(1) The Carrier violated the Agreement when it suspended Messrs. D. Cupp, C. Perry, R. Adkins, D. Scarberry, C. Hanshaw and S. Byrd for seven and one-half (7-1/2) hours on September 8, 1982 without benefit of a fair hearing as required by Rule 21(a) (1) [System File C-TC-1447/MG-3675].

(2) The Claimants shall each be allowed seven and one-half (7-1/2) hours of pay at their respective straight-time rates because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: This dispute involves a Claim that B&B Mechanics were taken out of service, thereby subjecting them to discipline without an investigation in violation of Rule 21 of the controlling Agreement.

The essential facts are not in dispute. On September 4, 1982, a Carrier Supervisor determined that the Claimants did not have the tools to perform their duties. These Claimants then were not allowed to work until such time as they possessed the necessary equipment.

The Board has thoroughly reviewed the record before it and has considered the Awards upon which both parties relied in the advancement of their assertions. It is apparent from the record before us that the Claimants lacked the proper tools to perform the work required of them on the day in question. The Carrier therefore had a legitimate basis to withhold the Claimants from service until they were properly equipped to perform their duties. The Carrier, under the circumstances here, has reasonably construed Rule 70 - Tools of the Agreement. Accordingly, the Claimants were not disciplined since Rule 21 of the Agreement does not apply, and the Claim must fail.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois this 12th day of December 1985.