

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26054
Docket Number MW-25934

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railway Company
(Southern Region)

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

(1) The discipline of Foreman A. L. Ginn ['ten (10) working days actual suspension to be served beginning June 1, 1983, and ending at the close of work day June 14, 1983, and forfeiture of your foreman rights'] was excessive and disproportionate to the charge leveled against him (System File C-D-1809/MG-4069).

(2) Claimant A. L. Ginn shall be returned to his former position as foreman with seniority as such unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The facts disclosed by the record are not in dispute. A Hearing was held on May 24, 1983, and Claimant was found at fault for collision between a Nolan Push Cart and Train No. 90. The controversy between the Claimant and Carrier grew out of the discipline imposed.

The Organization does not dispute that administration of discipline of ten (10) working days actual suspension is warranted. The Organization contends, however, the additional disqualification of Claimant's rights as a Foreman is excessive.

In the Board's view the penalty imposed for the infraction has served its purpose. The Board accordingly restores Claimant to his former position as Foreman with the understanding that reinstatement is subject to passing any necessary Rules tests Foremen normally have to take to meet eligibility requirements.

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.

Award Number 26054
Docket Number MW-25934


Page 2

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 11th day of June 1986.