

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26313  
Docket Number TD-25722

John B. **LaRocco**, Referee

PARTIES TO DISPUTE: (America" Train Dispatchers Association  
(**Consolidated** Rail Corporation

STATEMENT OF CLAIM:

"System Docket No. CR-203  
Southern Region-Columbus Division

Appeal from fifteen (15) days' suspension assessed **C. J. Estep**, Train Dispatcher, requesting that the discipline be rescinded, stricken from his record and Appellant be made whole for all time lost."

OPINION OF BOARD: 0" December 22, 1982. northbound Train DIIN-2 passed approximately two car lengths beyond the Brice Block Limit Station on the West Virginia Secondary without permission. The train then made a" unauthorized reverse movement and stopped south of the signal. Neither the train crew "or the Road Foreman-Engines (who was riding in the engine cab) informed Claimant, the Dispatcher on duty at Desk D, that the train had improperly operated two car lengths north of the block limit **station.**

The Carrier withheld Claimant from service pending an investigation to determine if Claimant committed any operating Rules infractions. Following a December 28, 1982, investigation, the Carrier suspended Claimant from service for fifteen days. The discipline was primarily premised on Claimant's alleged failure to report (to the Chief Dispatcher) an irregularity on the Brice hot box detector readout. However, after perusing the investigation transcript, we conclude that the Carrier did not satisfy its burden of proof.

At the investigation, Claimant **testified** that he knew the train had arrived at Brice when it activated the hot box detector. The detector readout stopped but quickly started again. **Claimant** checked with Frankfort Street to make certain the train had stopped. The tape again ceased. The Division Road Foreman declared that the readout indicated a possible irregularity. **Claimant** noted that the occurrence was **out** of the ordinary but he plausibly explained that the engineer might have made a second forward move toward the signal to reduce his air. More importantly, Claimant did not know that the hot box detector was located just sixty feet south of the block limit station. Moreover, the purpose of the mechanism is to detect hot boxes as opposed to fixing the precise location of a train. Claimant could not ascertain that the train overran the signal merely by looking at the readout unless his train consist was accurate and he **was** aware of the exact placement of the detector in relation to the block limit station.

The Carrier shall exonerate Claimant in accord with Rule 18, Section 5.

Inasmuch as we are sustaining this Claim on its merits, we need not address the **Organization's** contention that the Carrier lacked a reasonable justification for taking Claimant **out** of service pending the Hearing.

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

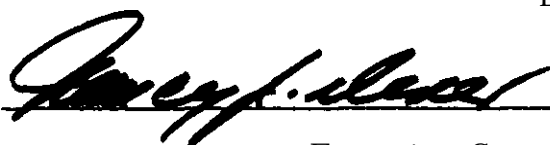
That the **Agreement was** violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1987.