

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26423
Docket Number MW-25874

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation

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

(1) The ten (10) days of suspension imposed upon Foreman F. Hood for alleged violation of Rules 'D', 'E' and '3013' on October 14, 1982 was arbitrary, **capricious**, unwarranted and on the basis of unproven charges (System Docket CR-105-D).

(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: Claimant, a **Foreman**, "as suspended for ten days as a result of an altercation in the Track Supervisor's Office in Edgemoor, Delaware. Claimant was charged as follows:

"Failure to conduct yourself in a proper manner when issued instructions by Supervisor, R. L. Dondiego, at approximately 7:10 AM, on October 14, 1982 which resulted in an altercation at the Track Supervisor's Office in Edgemoor, Delaware.

Violation of General Rules D and E, Rules of the Transportation Department when at approximately 7:10 AM, on October 14, 1982 at the Track Supervisor's Office in Edgemoor, Delaware, you failed to properly perform your duties as Foreman in dealing with your Supervisor, R. L. Doadiego.

Violation of Safety Rule 3013 governing Maintenance of Way Employees at approximately 7:10 AM on October 14, 1982 you were involved in a scuffle with your Supervisor, R. L. **Dondiego**, at the Track Supervisor's Office in Edgemoor, Delaware."

A Hearing into the matter was held on October 21, 1982. He was found guilty as charged and assessed a ten-day deferred suspension.

This Board has reviewed the Transcript of the Hearing **and** must conclude that Claimant was guilty as charged and that a ten-day deferred suspension was not an inappropriate penalty.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois this 24th day of August 1987.