

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26515  
Docket Number MW-26397

Eckehard Muessig, Referee

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

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

1. The ten (10) days' suspension imposed upon Vehicle Operator C. Blue for alleged 'responsibility for damage sustained by Reddi-Rentals Air Compressor EQ #C-8', was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System Docket CR-704-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: Subsequent to an Investigation, the Carrier found the Claimant responsible for damages to a rented air compressor that he had loaded into and transported in the back of a boom truck. Essentially, the Carrier relied upon testimony adduced at the hearing to reach its determination. At that time, the Claimant admitted that the boom on the truck damaged the compressor. Testimony also established that the Claimant had been told to tow the air compressor, rather than to carry it in the boom truck.

The testimony shows that there has been an admission of guilt and a request for leniency. Accordingly, given this acceptance of the legitimacy of the charge, the Claim has been disposed of and is not within the authority of the Board. In this respect, see particularly Awards No. 102, 103, 106 of SBA No. 589; First Division Award No. 5300 and Third Division Award No. 11914.

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 Claim is barred.

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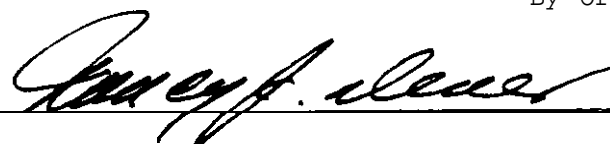
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A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.