

The Third Division consisted of the regular members and **in addition** Referee Eckehard Muessig when award **was** rendered.

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

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

(1) The Carrier, without **just** and sufficient cause and on the basis of unproven charges, imposed discipline upon Track Foreman G. Kuehnle for his

(a) alleged 'failure to perform your duties as Foreman by allowing employees under your jurisdiction an excessive lunch period on Friday, August 26, 1983, at Plymouth, Michigan' and for his

(b) alleged 'failure to perform your duties as Foreman by allowing employees under your jurisdiction an excessive lunch period on Tuesday, August 30, 1983, at Plymouth, Michigan' (System Files C-D-2007/MG-4413 and C-D-200B/MG-4412).

(2) Mr. G. Kuehnle shall have the reprimand removed from his record, his seniority as track foreman and assistant track foreman shall be restored and unimpaired, he shall have his record cleared of all charges leveled against him and he shall be allowed the difference between what he would have received at the track foreman's rate and what he was paid in a lower rated position until he is returned to work as a track foreman with seniority as such unimpaired."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the **employee** or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Subsequent to a" investigation, the Carrier determined that the Claimant, who is a Foreman, had improperly permitted employees under his jurisdiction a" excessive lunch period on Friday, August 26, 1983. The Carrier, in reaching its findings, relied upon the testimony of the Claimant's Supervisor who stated:

(a) That the Claimant had bee" previously warned not to exceed a thirty minute lunch period;

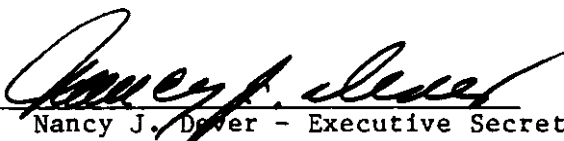
(b) That he observed the Claimant's me" return from lunch at 12:15 p.m., a period of thirty minutes beyond what was permitted.

We find credible and **sufficient** evidence which supports the charges of the Carrier. **Moreover**, the Claimant who held a **responsible** leadership position, had bee" cautioned as to his responsibilities **in** matters such as this. Under all the **circumstances**, we will not disturb the final **assessment** of discipline.

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 28th day of January 1988.