

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri-Kansas-Texas Railroad Company:

Case No. 1

(a) Claim on behalf of W. H. Harles, Signal Maintainer, at Moran, Kansas, who was assessed fifteen days of suspension from service which was deferred as per provisions of Circular No. DP-2.

(b) Carrier should be required to clear record of Claimant W. H. Harles concerning the discipline and restore all of his rights. (Carrier file 2619)

Case No. 2

(a) Claim on behalf of Signal Maintainer W. H. Harles headquartered at Moran, Kansas for 6 hours at his straight time rate of pay on August 15, 1983, and 8 hours straight time and 6 hours overtime at his rate of pay on August 16, 1983 account of attending an investigation held on August 16, 1983 in Dennison, Texas.

(b) Carrier should now be required to pay Signal Maintainer Harles, in accordance with the scheduled Agreement, as amended, particularly Rule 73 of Agreement DP-510. (Carrier file 2619)"

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

Claimant was employed as a Signal Maintainer at Moran, Kansas. On August 5, 1983, he was ordered to proceed to M.P. A-75.5 to remove the tape from a hot box detector to check if the device was operable. It appears that a train had passed the detector without getting a signal and shortly thereafter had to stop and set out a car with a hot box. Claimant did as directed. He removed the tape at 9:20 AM. When he observed the tape, he concluded that it was not operable and had missed a train. He failed to report this malfunction to anyone until 3:10 PM. Carrier charged Claimant with violation of company rules, indifference, and dereliction of duties. A hearing into the matter was held on August 16, 1983. Claimant was found guilty as charged and assessed a 15-day deferred suspension.

The Board has reviewed the record and the transcript contained therein and concludes Claimant is guilty as charged. We also find that Claimant was granted all due process rights and procedural and substantive rights guaranteed by Agreement. Claimant did take an indifferent attitude toward his responsibilities in this instance and a 15-day deferred suspension is not inappropriate.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1988.