

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(New Orleans Public Belt Railroad

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

(1) The five (5) days of suspension imposed upon Trackman A. Thomas, Jr. for alleged failure to follow instructions, being loud, boisterous and insubordinate to Section Foreman E. B. Cantrell on September 5, 1985 was arbitrary, capricious and on the basis of unproven charges.

(2) The Claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

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 employees 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, a Trackman, was assessed a five-day suspension by his Foreman for allegedly failing to follow instructions and being loud, boisterous, and insubordinate. Following a hearing on September 24, 1985, the decision was sustained.

This Board has reviewed the entire record of this case and finds that while there is evidence to indicate that Claimant acted inappropriately on September 5, 1985 when told by his Supervisor to come over to him, a letter of reprimand would have been sufficient in this instance to impress upon Claimant the need to modify his behavior. Accordingly, the five day suspension issued Claimant shall be reduced to a Letter of Reprimand, and Claimant shall be allowed five days' pay at the Trackman's pro rata rate. We also note that Carrier omitted mention of Claimant's prior record until its submission to this Division. This information should have been made a part of the record on the property.

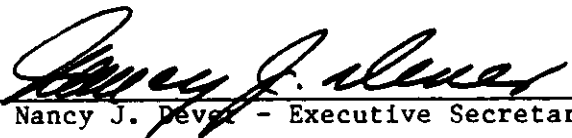
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Award No. 27151  
Docket No. MW-27239  
88-3-86-3-549

A W A R D

Claim sustained in accordance with the Findings.

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.