

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 27152  
Docket No. MW-27251  
88-3-86-3-340

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  
(Soo Line Railroad Company (formerly Chicago, Milwaukee, St. Paul and Pacific Railroad Company)

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

(1) The discipline (thirty days of suspension and restriction of his seniority as a track foreman for an indefinite time) imposed upon Extra Gang Foreman A. F. Scott for alleged violation of Rule 700A was arbitrary and excessive (System File C #20-85/D-2685).

(2) Mr. A. F. Scott's seniority as track foreman shall be restored and unimpaired, his record shall be cleared of the charge leveled against him and he shall be compensated for wage loss suffered by him 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 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.

On February 1, 1985, Claimant was issued a thirty-day suspension and had his seniority restricted as a track foreman for an indefinite time for his failure to report an accident in which a van that he was operating struck an automobile on Company property. Rule 700A of the Operating Rules states that "Employees who withhold information, or fail to give factual report of an irregularity, accident, or violation of rules, will not be retained in the service." Claimant's thirty-day suspension activated a sixty-day deferred suspension. The discipline was subsequently upheld following an investigation hearing.

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Given Claimant's admission that he did, in fact, fail to report the accident, the only question that remains is that of the appropriateness of the discipline assessed. The Organization argues that imposing a suspension on top of a demotion constitutes dual discipline. Given the seriousness of the infraction and Claimant's past record, however, Carrier's discipline in this case is not unduly excessive. The thirty-day suspension is an appropriate response to a major lapse on Claimant's part in the safety area, while the demotion bars him from functioning as a foreman in the future. Given all the circumstances of this case, we find no reason to set aside Carrier's decision.

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.