

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 Employees  
(Union Pacific Railroad Company

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

(1) The 30 days of suspension imposed upon Extra Gang Foreman A. R. Boyd for alleged violation of General Rules 'A', 'B' and 'I', Rule 1510 and Safety Rules 4000, 4001, 4005 and 4008, was on the basis of unproven charges and at a hearing that was neither fair nor impartial (System File C-43/013-210-B).

(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 employee or employees involved in this dispute are respectively carrier and employee 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.

There is no dispute about the facts of this case. On July 18, 1985, Claimant, who was assigned as an Extra Gang Foreman, inadvertently struck Carpenter B. Loffredo with a sledge hammer. Claimant was cited with the violation of several rules and was notified to attend an investigation. As a result of that investigation, he was given a thirty-day suspension.

The Board has reviewed the record of this case and has fully considered the Organization's arguments concerning alleged procedural defects in the handling of the investigation. We find that Claimant was granted a full and fair hearing and that he was not denied any rights guaranteed by Agreement. At no time before, during, or after the investigation was Claimant's position prejudiced by Carrier's handling of the case.

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Award No. 27159  
Docket No. MW-27456  
88-3-86-3-698

Claimant's past record contains five prior instances of discipline, including two for safety-related matters. Under the circumstances, the discipline imposed is not arbitrary or capricious.

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.