

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
(Southern Pacific Transportation Company (Eastern Lines)

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

(1) The twenty-eight (28) days of suspension imposed upon Machine Operator J. W. Lavergne for alleged violation of Rule 1041 was arbitrary, capricious and in violation of the Agreement (System File MW-86-15/444-92-A).

(2) The Claimant's record shall be cleared of the charge leveled against him and he shall be compensated for one hundred sixty-eight (168) hours at the ballast regulator operator's straight time rate of pay."

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 December 10, 1985, Claimant, a Machine Operator, attended an investigation into his alleged role in conjunction with his machine, Ballast Regulator 134 RH, being found with safety devices missing or fixed in an unsafe manner on November 6, 1985. He was found guilty as charged and received a 28-day suspension.

The Board has reviewed the entire record of the case, including the transcript of the investigation, and finds that sufficient probative evidence was brought forth at the hearing to support the charge. We cannot conclude, however, that a 28-day suspension is appropriate. Rather, a ten-day suspension should be sufficient to place Claimant on notice that he must exercise greater responsibility in the care of the machine to which he is assigned.

Form 1
Page 2

Award No. 27163
Docket No. MW-27537
88-3-86-3-797

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.