

The Third Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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 Co. (MKT):

Claim on behalf of M. D. Farrell for reinstatement to service with all pay, rights and benefits restored beginning on or about May 20, 1985, account of Carrier violated the current Agreement, as amended, particularly, Rule 70, when it removed him from service following an investigation on May 17, 1985. 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 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 were given due notice of hearing thereon.

Certain important aspects of this case are not in dispute:

- (1) Mr. Farrell inserted a card between contacts in a switch circuit controller, and as a result of this action, the switch could be open to full reverse position and the signals would remain in the green position (which would be a false signal);
- (2) Mr. Farrell's initial inspection of the switch controls found these damaged, yet Mr. Farrell did not repair the damaged switch.

There is substantial evidence from which to conclude that Claimant knew or should have known that it would be a violation of a Federal Railroad Administration rule to place a card between the contacts. Based upon Claimant's railroad experience, he should have known that his action would create

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create a potential safety hazard (false green signal). It is immaterial for a decision in this matter that the switch was spiked at the time Claimant inserted the card.

Claimant has provided no satisfactory explanation for not replacing the damaged switch box. Claimant had firsthand knowledge that the switch box needed to be replaced and he had an opportunity to do the work. Nevertheless, Claimant did not replace the switch box until specifically instructed to do so by his supervisor.

In accordance with Rule 70 (g), Claimant was properly withheld from service. We find no procedural violations in the handling of this case.

Upon consideration of the entire record, we believe that discipline has served its purpose, and Claimant is to be returned to service with all rights restored but without backpay.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

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