

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Baltimore & Ohio Railroad Company (B&O)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalman on the Baltimore and Ohio Railroad Company (B&O):

On behalf of R. B. Mensen for payment of ten (10) days pay at his pro-rata rate of pay account of his being suspended for ten (10) days account of his alleged involvement in a vehicle accident on April 15, 1985, in Vincennes, Indiana. Carrier file: 2-SG-798."

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 employes 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.

The evidence is clear that the Claimant, while driving a Carrier vehicle, was involved in an accident when he attempted to make a left turn in the face of on coming traffic. Since the other vehicle was not required to stop at the intersection its driver had the right-of-way. The Claimant was issued a traffic citation by the Vincennes Police Department when it determined that the Claimant was responsible for operating the Carrier's truck improperly.

The Organization contends that the discipline was excessive in view of the Claimant's 40 years of service and excellent safety record. It notes that (1) the Claimant had waited for 10 to 15 cars to pass before he turned, (2) had his left turn signal on, (3) had checked both rear views before turning and observed no cars, (4) it had been raining and (5) he was moving at about 2 miles per hour when the collision occurred.

Although the Board regrets that the Claimant's fine record has been blemished by this incident and that his earnings have been adversely affected as a result, we do not find the discipline to be arbitrary or excessive. Nor is there any evidence to support the allegations that the Vincennes Police Department acted improperly or that the Claimant was treated disparately by the Carrier.

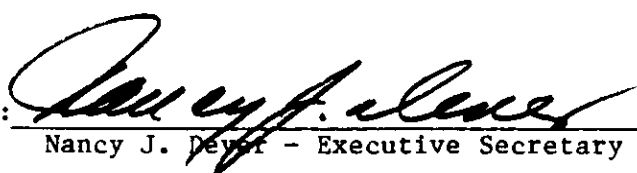
Accordingly, as there has been no demonstration of abuse of managerial discretion, the Board will not substitute its judgment for that of the Employer. (See Third Division Awards 6240, 16281 and 5360).

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 20th day of July 1988.