

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(National Railroad Passenger Corporation
((Amtrak - Northeast Corridor)

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

(1) The sixty (60) days of suspension imposed upon Welder Helper W. F. Gibson for alleged violation of Rule 'L' of Amtrak's Rules of Conduct was arbitrary, on the basis of unproven charges and in violation of the Agreement (System File NEC-BMWE-SD-795D).

(2) The claimant's record shall be cleared of the charge 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 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.

In this case, the Carrier, primarily relying upon the testimony of two witnesses, concluded that the Claimant was asleep while on duty and that he had done no work on the project to which he had been assigned.

We have carefully reviewed the lengthy transcript of the Hearing held on this matter and we have considered the Organization's vigorous contentions. The Organization suggests that the Carrier fatally erred because it deprived the Claimant of his due process rights in addition to not proving that the Claimant was sleeping on duty.

We do not find that the Claimant was deprived of his basis rights. While certain events and matters might have been handled differently, we note that the Claimant was well-defended and that appropriate issues were pursued to a reasonable conclusion.

Form 1
Page 2

Award No. 27298
Docket No. MW-26449
88-3-85-3-183

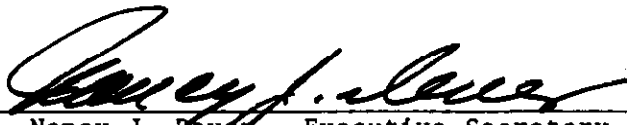
With respect to the merits, there is substantial evidence to support the Carrier's findings and the Claim, therefore, is denied.

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 12th day of August 1988.