

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28431
Docket No. MS-27963
90-1-87-3-789

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

PARTIES TO DISPUTE: (Louis C. James
(Northeast Illinois Regional Commuter Railroad Corporation

STATEMENT OF CLAIM:

"Reinstated back to work:"

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 employees 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.

Following an Investigation held on September 18, 1986, Claimant was dismissed from Carrier's service. Carrier concluded that Claimant had failed to properly protect his position on August 25, 1986, in violation of Rule Q of the Rules and Regulations for Maintenance of Way & Structures.

This Board has carefully reviewed the record of this Claim and while we find it to be procedurally sound, we also conclude that it is lacking in merit.

Claimant was to report to the Water Service Division at 7:30 A.M. on August 25, 1986. He acknowledges that he did not appear until two and one half hours later. He maintained at the Investigation that he did not call because he did not have the proper number.

Claimant was well aware of his responsibilities under Rule Q. As Carrier points out, Claimant's past record includes a prior dismissal in December 1982 (for excessive demerits, largely due to Rule Q violations). After a return to work on a leniency basis, there were two waivers for suspension due to Rule Q violations in July 1985 and two additional suspensions following Hearings held in August and September 1985. Claimant was assessed a total of 96 days suspension. (We note that his appeal of this latter decision was recently denied in Third Division Award 27711).

Based on the entire record of this case, we cannot conclude that Carrier's discipline was arbitrary or capricious.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 21st day of June 1990.