

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employees  
(CSX Transportation, Inc. (former Chesapeake and Ohio  
Railway Company)

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

(1) The ten (10) working days of actual suspension imposed upon Assistant Foreman D. A. Murphy for alleged failure to properly protect work authorities on September 8, 1988 between DG Cabin and Limeville, Kentucky, was harsh and unjust (System File C-D-4572/12(88-1007 COS).

(2) The Claimant shall have his record cleared of the charge leveled against him, he shall be paid all wage loss suffered and have ten (10) days credited toward his vacation qualifying time."

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.

Before leaving work on September 7, 1988, Claimant, an Assistant Foreman, received authority from the control station to perform track maintenance work the following day from 6:30 A.M. through 4:30 P.M. Under Operating Rule 707, no train could enter the limits of the work authority unless permitted to do so by the employee in charge, which was Claimant.

At 7:10 A.M. on September 8, 1988, while two trains were stopped and attempting to contact the employee in charge, the Roadmaster became aware that Claimant was not at work. Claimant was subsequently found at the lodging facility, where he stated that he was too sick to go to work.

Form 1  
Page 2

Award No. 28570  
Docket No. MW-29019  
90-3-89-3-443


Claimant subsequently received a ten day suspension for failure to properly protect his work authority. At his Investigation, Claimant acknowledged that he had an opportunity to notify someone that he would not be at work, but failed to do so. Based upon this testimony, we conclude that the Carrier had just cause to issue the discipline.

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 27th day of September 1990.