

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Railway Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway System (SOUTHERN):

On behalf of J. J. Rhodes, for payment of five (5) days pay at his pro-rata rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Discipline Rule, when it failed to find him guilty as charged." G.C. file SR--32-88. Carrier file SG-INV-88-13.

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.

On August 31, 1988, Claimant was called to an Investigation to determine his responsibility in failing to protect his assignment on Sunday, August 21, 1988, when he was needed to clear red signals in Beaumont, South Carolina. Claimant was scheduled for hold call that weekend and under the Carrier's General Regulation No. 7, he was required to be at his usual calling place or furnish Carrier with information as to his whereabouts. Beginning at 10 o'clock in the evening, numerous calls were made to Claimant's home phone and beeper, with no response. Following the Investigation, Claimant was assessed a five-day suspension.

Claimant acknowledged at the Hearing that he was not at home when the calls to him were made, but contends, in mitigation, that there was a malfunction in the telephone system that made his voice pager inoperative. Claimant was the victim of circumstances beyond his control.

This Board has made a complete review of the record and we are unable to find any direct evidence that there was a problem with Claimant's beeper on Sunday, August 21, 1988, as the result of a malfunction in the telephone system. At the same time, we must conclude that anyone who relies on a pager when subject to call bears the responsibility for ensuring that the system is operative.

Under all of the circumstances present here, we find that Carrier had sufficient reason to sustain its charge and that the discipline imposed was not excessive.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1991.