

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc. (former SCL)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (formerly the Seaboard Coast Line):

On behalf of H. L. Williams, for payment of compensation equivalent to 90 days pay at his pro-rata rate of pay, account of the Carrier violated the current Signalmen's Agreement, as amended, particularly, the Discipline rule when it did not give him a fair and impartial hearing and assessed him with excessive discipline." Carrier file 15-47 (88-31).

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.

Claimant was charged with unauthorized absence on February 18 and 19, 1988, and with claiming pay for both of those days, thus falsifying his time sheets. He was also charged with claiming RUIA sick benefits during the sixty day period he was suspended from service for another disciplinary violation, beginning February 22, 1988. Following an Investigation held on May 4, 1988, Claimant was found to be guilty of claiming time and wages on the payroll for work not performed on February 18 and 19 and was assessed a ninety day suspension in lieu of dismissal, the suspension to be served from April 22 to July 20, 1988.

The Organization argues that Claimant was not given a fair investigation and further was not appropriately found guilty of the charges. The Organization asserts that Claimant did not receive adequate training in making out his time sheet and, further, attempted to make restitution when he discovered the overpayment of wages. Therefore, in any event, the discipline was excessive.

Carrier asserts that Claimant received a fair Investigation and that he was properly found guilty of the particular charge. Carrier states that Claimant was well aware of how to properly adjust his time sheet and had done so in the past. Carrier also notes that Claimant was off duty due to a medical problem (allegedly work related) from February 19 until September 1, 1988, and for that reason lost no time as a result of the 90-day suspension in lieu of dismissal to be served from April 22 through July 20, 1988.


An examination of the transcript of the Investigation in this matter does not support the Organization's position. The Board must conclude that Claimant was given a fair Investigation. With respect to the evidence, there is no question but that Carrier was correct in its conclusions with regard to Claimant's actions in claiming pay for time not worked. It has long been held that such an act is a serious instance of dishonesty warranting dismissal (see for example Second Division Awards 7673 and 8791). In this case not only was the ninety day suspension lenient under the circumstances, but, additionally, it resulted in no loss of pay for Claimant due to his medical leave of absence during the suspension period. Thus, the Claim must be denied.

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.