

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 B&O)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Railroad Company (B&O):

Claim on behalf of W. E. Whitacre, for payment of 30 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 assessed him with an excessive discipline of 30 days suspension. Carrier file 15 (89-15). BRS. file Case No. 7818-B&O."

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.

Claimant, a Signalman, while filling a Maintainer's vacancy, was charged with "...responsibility, if any, for making repairs to the signal equipment at Patterson Creek Interlocking on October 17, 1988, in such a manner that it impaired the safe and proper operation of the signal system" Following an Investigation he was found guilty of the charges and was assessed the penalty which is the subject of this dispute.

The Organization insists that while Claimant admitted guilt in this situation, the penalty was excessive. It is argued that Claimant had a clean prior record and the thirty day suspension was not commensurate with the infraction.

Carrier notes that Claimant had been repairing certain severed wires on the day in question and failed to perform the simple test which would have indicated that he had reversed the wires, thus disabling the signal system in the area. Further, he did not seek help or notify anyone when a train was stopped by the dark signal. Finally he sought help and the problem was corrected on the day following the error which he had committed. Carrier believes that Claimant was guilty of a serious dereliction of his responsibilities which could have had dire consequences.

There is no question about Claimant's responsibility for the problem; he admitted it. The sole question is the measure of discipline imposed by Carrier. We have said in many prior Awards that we will not interfere with Carrier's disciplinary decision unless it is arbitrary, capricious or an abuse of discretion (see among many others, Third Division Awards 26347, 25150 and 26844). In this dispute, given the seriousness of the infraction, and the potential for serious injury to both fellow employees and the public, we do not view Carrier's determination to be harsh or improper in any respect. 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 July 1991.