

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Elgin, Joliet and Eastern Railway Company

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

(1) The five (5) demerits imposed upon Mr. D. R. Hayhurst for alleged violation of Rule 19 on September 2, 1988 was arbitrary, capricious, based on unproven charges and in violation of the Agreement (System File DT-4-88/MM-4-88).

(2) The Claimant's record shall be cleared of the charge leveled against him and the five (5) demerits shall be rescinded."

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 on a charge of failure to comply with instructions to grease the fifth wheel of the vehicle he was assigned to operate, Claimant was assessed five demerits. The Organization has appealed the discipline assessed on a variety of grounds. We have examined the Transcript of the Investigation and the record made before this Board and do not find that Claimant's rights to a fair and impartial Investigation, as provided in the Agreement, were violated so as to flaw the Investigation or the discipline assessed. Moreover, adequate evidence is contained in the Transcript of the Investigation to establish Claimant's guilt on the charge. The discipline will not be disturbed.

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Award No. 29119  
Docket No. MW-29193  
92-3-90-3-59

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 28th day of February 1992.