

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  
(CSX Transportation, Inc. (former Seaboard System Railroad)

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

(1) The Agreement was violated when the Carrier assessed Claimant K. B. Page a five (5) day actual suspension for allegedly failing to properly report a personal injury he sustained on August 23, 1989 [System File KBP-89-54/12(89-865) SSY].

(2) As a consequence of the violation referred to in Part (1) above, the Claimant's record shall be cleared of the charges leveled against him and he shall be compensated:

'5 days for discipline pay \$11.81 X 40  
hours = \$472.40  
1 day pay for hearing attendance  
\$11.81 X 8 hrs. = \$94.48  
Travel to and from the hearing and  
mileage and travel pay on October 2,  
1989 from Brooksville, Florida to  
Hialeah, Florida and back based on  
306 actual miles of travel.'

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.

Following an investigation on a charge that Claimant had failed to report a personal injury at the time he sustained the injury he was assessed discipline of a five days suspension. On appeal the Organization alleged that Carrier failed to render a timely denial at one stage of the procedure. Before this Board the Organization seeks to have the discipline removed on both procedural and substantive grounds.

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Award No. 29161  
Docket No. MW-29526  
92-3-90-3-461

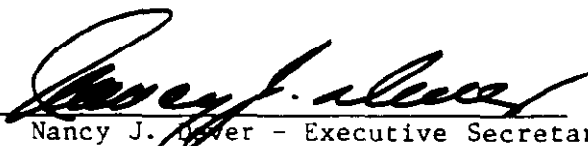
The record before the Board supports the contentions of the Organization that Carrier was late in rendering its decision following Claimant's Investigation. Accordingly, the Claim will be sustained without consideration of the merits of the matter.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Gower - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of April 1992.