

The Third Division consisted of the regular members and in addition Referee William E. Fredenberger, Jr. when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (formerly The Chesapeake and
Ohio Railway Company)

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

(1) The discipline (loss of all Foreman and Assistant Foreman rights, effective October 10, 1988) imposed upon Mr. R. L. Smith for allegedly falsifying timesheets for Force 5G92 for pay period ending August 26, 1988 was arbitrary and capricious [System File C-D-4549/12(88-910) COS].

(2) The Claimant shall have his Foreman and Assistant Foreman rights restored unimpaired, his record cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

FINDINGS:

The Second 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.

In October 1988, Claimant was employed as a track foreman, a position he held since 1981. On August 29, 1988, Claimant completed the time sheets for his crew for the week of August 22 through August 26, 1988. The time sheets prepared by Claimant incorrectly credited one employee who did not work with eight hours straight time and two hours overtime and credited two other employees with more hours than they actually worked.

By letter of September 2, 1988, the Carrier notified Claimant to appear for formal Investigation on the charge that he had falsified time sheets for his crew for the pay period ending August 26, 1988. The Investigation was held on September 15, 1988. By letter of September 30, 1988, the Carrier notified Claimant that as a result of the Investigation it had been determined that he had falsified the time sheets as charged and that the discipline assessed "...is loss of all Foreman and Assistant Foreman rights, effective October 10, 1988."

Our review of the record reveals Claimant acknowledged shortly after turning in the time sheets that the information with respect to the three employees identified by the Carrier was erroneous. Claimant contended that it was an honest mistake. The Carrier argues that Claimant was warned repeatedly against falsifying his time slips. However, the evidence offered by the Carrier in support of that allegation indicates only one such warning approximately one month before the incident in this case.

We believe that the record in this case establishes that Claimant was negligent in filling out the time sheets, and he virtually admitted so during the Investigation. In Third Division Award 23057, the Board faced a similar situation where the record did not establish falsification but did support the conclusion that the Claimant had been negligent in making out his time sheets. The Division reduced the discipline from suspension to a letter of reprimand.

Based upon the record before us, we find the discipline assessed, loss of Foreman and Assistant Foreman rights, to be harsh and excessive. Accordingly we will reinstate Claimant's rights as a Foreman and Assistant Foreman unimpaired, but without compensation for any wage loss suffered.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 7th day of May 1992.