

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: "Claim on behalf the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company (N&W):

A. Carrier violated the rules of the Signalmen's Agreement, in particular Article VII, when, on April 2, 1990, Carrier assessed Mr. Duncan a 30-day actual suspension, plus the amount of \$98.05, without just and sufficient cause, on the basis of unproven charges before and/or during investigation held on March 23, 1990.

B. Carrier should now pay Mr. Duncan for all time and benefits lost, the amount of \$98.05 which Mr. Duncan submitted to Carrier, and clear his personal record of any reference to this matter." Carrier file SG-BLUE-90-1. BRS Case No. 8231.N&W.

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 violating General Rule L, which provides in pertinent part that "Unauthorized possession, removal or disposal of any material from railroad property...is prohibited."

At the Hearing held on the charge, it was developed that the Claimant, while on duty, had given some assistance to a contractor who had been employed to take down and remove some out-of-service wire. He later removed some copper wire left by the contractor and sold it to an outside vendor as scrap for \$98.05. He testified that the contractor had given him permission to remove the wire. Subsequent to the Hearing, Claimant was found guilty of the charge and assessed the penalty of a 30-day suspension; he was also required to remit the proceeds of the sale to the Carrier.

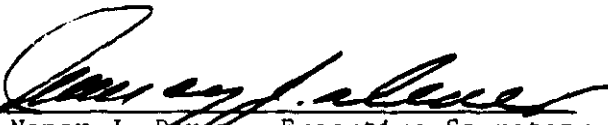
The Board finds that Claimant received a fair and impartial Hearing, and that there was substantive evidence that he was guilty as charged. General Rule L is clear and unambiguous on its face, and Claimant's statement of belief that someone else owned material which was on railroad property and had given it to him is immaterial to enforcement of the Rule. We therefore find no reason to disturb the Carrier's decision in this matter.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.