

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29358  
Docket No. TD-28781  
92-3-89-3-180

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (American Train Dispatchers Association  
(  
(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

"Appeal of 30 days deferred suspension assessed Train Dispatcher L. C. Geissman on 4/22/88, with request that it be removed from his record and that he be reimbursed for 2 days wages lost in attending the hearing. Carrier file TD-BRS-88-1."

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.

On March 14, 1988, the Claimant was charged with failing to properly read and interpret certain defective equipment read out tapes, leading to the unnecessary inspection of some cars and failure to inspect another car. As a result of a Hearing held on April 12, 1988, Carrier assessed the Claimant a thirty-day deferred suspension.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to properly perform his duties.

The transcript contains admissions by the Claimant that he failed to require the necessary inspection of a hot car, and he did not follow the instructions in large part because he did not agree with them or he did not read the tapes properly.

Once this Board has determined that there is sufficient evidence in the record to support the guilty findings, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

The record in this case reveals that the Claimant had previously been disciplined on two occasions for failure to properly perform his duties, one time receiving a ten-day deferred suspension and the next time being dismissed and then reinstated two months later by this Board.


Given the seriousness of the offense in this case and the previous disciplinary record of the Claimant, this Board cannot find that there was no just cause for the 30-day suspension. Therefore, the Claim will be denied.

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 25th day of August 1992.