

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30052
Docket No. CL-30629
94-3-92-3-401

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

PARTIES TO DISPUTE: (Transportation Communications International Union)
(CSX Transportation, Inc. (former Chesapeake and Ohio Railway Company))

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10811) that:

1. Carrier violated the terms of the General Agreement and Memoranda thereto when on September 6, 1990, it held investigation on Clerk-Operator H. L. Hiltibrand, charged with responsibility in connection with Job Y-211 passing an absolute signal conveying a stop indication without permission in the vicinity of KC Junction Tower, at Covington, Kentucky, at or about 1800 hours, on August 28, 1990, and with failure to report to a supervising officer that an absolute block signal conveying a stop indication had been passed without permission; and,
2. Carrier shall now arrange to compensate Clerk-Operator Hiltibrand, ID 176424, for seven (7) days actual suspension at the rate of \$112.06 per day which was actual time that he was withheld from service pending the outcome of the investigation."

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 employe 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, with over 38 years of service, was employed as a Clerk-Operator at KC Tower. On August 29, 1990, Claimant was instructed to attend an Investigation on September 2, 1990, to answer the following charges:

"You are charged with responsibility in connection with Job Y-211 passing an absolute signal conveying a stop indication without permission in the vicinity of KC Junction Tower, at Covington, Kentucky, at or about 1800 hours, on August 28, 1990, and with failure to report to a supervising officer that an absolute block signal, conveying a stop indication had been passed without permission."

At the request of the Brotherhood of Locomotive Engineers, the hearing was postponed until September 6, 1990. As a result of the Investigation the Claimant was suspended for seven days for violating CSX Operating Rule E which states as follows:

"Employees must render assistance in carrying out the rules and special instructions and must report any violation of the rules or special instructions promptly to a supervising officer."

It is clear from the record that the Claimant knew the train crew had violated an Operating Rule and chose not to tell supervision, because he did not want to get anyone in trouble.

While Claimant violated Rule E, this Board finds a seven day suspension for a first offense after 38 years of service to be excessive. Therefore we will reduce the discipline to a reprimand and Claimant will be paid for all wages lost while suspended.

A W A R D

Claim sustained in accordance with Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 17th day of February 1994.