

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 31138  
Docket No. SG-31674  
95-3-93-3-652

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Southern Pacific Transportation Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (SP):

Claim on behalf of W.H. Owens Jr. for reinstatement to service with all rights and benefits restored and with payment for all lost time, account Carrier violated the current Signalmen's Agreement, particularly Rule 53, when it imposed the harsh and excessive discipline of dismissal against the Claimant following an investigation held on November 12, 1992." Carrier's File No. SIGD93-1. General Chairman's File No. SWGC-536. BRS File Case No. 9267-SP.

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 negligence in failing to maintain battery backup systems at two locations within his assigned territory.

After a timely held Investigation, Claimant was discharged from Carrier's services.

In contrast to the Employees contention, Carrier did clearly establish Claimant's culpability for the charges assessed and further, the discipline of dismissal in this instance was not excessive nor an abuse of Carrier's authority.

From October of 1990 to November of 1992 the Carrier found it necessary to charge Claimant with the same charge i.e. failure to maintain batteries, three times. The first charge resulted in 45 demerits, the second resulted in a 16 day suspension upheld by Third Division Award 31009 and the third charge that resulted in dismissal (the case here in dispute). Enough is enough.

The Carrier can no longer gamble with the safety of its employees and the pedestrian vehicular traffic. Claimant has been negligent in maintaining the back-up system in his assigned territory. This Board will not interfere in the discipline assessed.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of September 1995.