

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31377
Docket No. MW-32047
96-3-94-3-413

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(CSX Transportation, Inc. (former
(Seaboard System Railroad)

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

- (1) The discipline (15 day overhead suspension) imposed upon Trackman G. A. Lee for alleged failure to exercise good judgment in connection with a personal injury occurring on August 2, 1993, was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement [System File GAL-93-16/12 (93-1053) SSY].
- (2) As a consequence of the violation referred to in Part (1) above, Trackman G. A. Lee's record shall be cleared of the charges leveled against him and he shall be compensated for all expenses and wage loss suffered, as provided in Rule 31 and Section 4 of Rule 39."

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 disciplined on an alleged failure to exercise good judgment when he was attempting to place an advance slow order warning board in an alleged unsuitable location, resulting in neck strain that caused him to lose work. Review of the Investigation transcript does not support a conclusion that the charges of failure to exercise good judgment were adequately established. Accordingly, the discipline assessed will not be allowed to stand.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of February 1996.