

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32122
Docket No. SG-32856
97-3-96-3-201**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (B&O):

Claim on behalf of F. Tabron for payment of all time lost as a result of his suspension from service for 10 days, account Carrier violated the current Signalmen's Agreement, particularly Rule 50, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline without meeting the burden of proving its charges in connection with an investigation conducted on May 19, 1994. Carrier's File No. 15(95-158). BRS File Case No. 9808-B&O."

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 were given due notice of hearing thereon.

Claimant received permission from his immediate Supervisor to be absent from work on May 11, 1994 so he could appear in court that day. Claimant did not report for work on May 11. It is undisputed that Claimant also did not report for work the next day, May 12. Claimant contends he had permission from his Supervisor to be absent on May 12. The Supervisor denied that Claimant ever asked to be off on May 12 and testified he never approved Claimant's absence on that date. The Hearing Officer determined that permission to be absent on May 12 had neither been sought, nor granted. Claimant was assessed a ten day suspension.

The Board concludes that Claimant was afforded a fair and impartial Hearing. The Hearing Officer based his decision in part on his evaluation of the credibility of witnesses who gave conflicting testimony. It is not the function of this Board to make credibility determinations. Credibility determinations were properly made by the Hearing Officer who received live testimony and observed the demeanor of the witnesses. Nor is it the function of this Board to overturn a Hearing Officer's credibility determinations which are supported by substantial evidence, as here.

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 13th day of August 1997.