

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32201
Docket No. TD-32665
97-3-95-3-602**

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

**(American Train Dispatchers Department/International
(Brotherhood of Locomotive Engineers
PARTIES TO DISPUTE: (
(Chicago and North Western Transportation Company**

STATEMENT OF CLAIM:

"This appeal is based on the fact that the Carrier failed to provide Appellant Mast with a fair and impartial investigation. The decision of Mr. Murphy to assess discipline breaches Appellant's basic right to an independent review of the record and determine his culpability based solely on evidence adduced at the investigation. In this case, Mr. Murphy investigated the alleged incident, decided that an investigation was warranted, determined Appellant's guilt, and assessed discipline. Such a process required Mr. Murphy to review his own original decisions in this matter, thus violating Appellant's right to an independent review of his case. Clearly, this is a total violation of Appellant's right to a fair and impartial hearing.

I respectfully request that you consider this appeal and find in favor of the Appellant. We specifically request that you allow compensation for all lost time, lost benefits, and expenses incurred in attending the investigation and removal of any reference to this discipline from Appellant's personal record."

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.

On November 16, 1994, Claimant took an incomplete turnover which resulted in his clearing more than 20 trains without proper orders and bulletins. At his Investigation Claimant admitted that he indeed took an incomplete turnover. Following the conclusion of the Investigation, Claimant was assessed discipline of a five day suspension.

The Organization has appealed this assessment of discipline to this Board on a variety of procedural grounds. The Board has considered each of the several alleged procedural defects raised by the Organization and determines that they do not possess sufficient merit to warrant that the discipline assessed in this matter be modified. Accordingly, the claim will be denied.

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 17th day of September 1997.