

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32568
Docket No. SG-33504
98-3-96-3-1045

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Baltimore &
(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 E.F. Schaffer III for reinstatement to service with his seniority unimpaired, account Carrier violated the current Signalman's Agreement, particularly Rule 50, when it failed to provide the Claimant with a fair and impartial investigation and imposed the harsh and excessive discipline of dismissal in connection with an investigation conducted on November 30, 1995. Carrier's File No. 15(96-7). BRS File Case No. 10007-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.

The Claimant was instructed to attend an Investigation to determine facts and place responsibility, if any, in connection with his alleged improper use of a Corporate Lodging Card while off duty on October 12 and 17-19, 1995. After an Investigation into these matters was held, the Carrier advised the Claimant that he had been found guilty as charged and he was discharged from the service of the Carrier.

A review of the full record warrants conclusion that there were considerable extenuating circumstances in this case. In view of this the Board agrees with the Organization that discharge was an overly harsh disciplinary measure to be taken by the Carrier.

Consequently, the Board will provide the Claimant with an opportunity to prove himself a worthwhile employee to the Carrier. Given the unique circumstances of this case such opportunity shall be granted on a final chance basis.

The Claimant shall be reinstated with seniority unimpaired, but with no backpay for time held out of service. He shall take the required physical examination upon his return to work and he shall participate in the Carrier's Employee Assistance Program. The Claimant shall participate in the latter for a period of five years, commencing with the date Claimant returns to work. During the five year EAP period the Claimant shall be considered a probationary employee and shall be subject to random drug and alcohol testing at times chosen by the Carrier. If the Claimant refuses to take drug or alcohol tests as requested, or tests positive on such tests, such will be grounds for automatic permanent dismissal without necessity of a formal Investigation.

AWARD

Claim sustained in accordance with the Findings.

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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 April 1998.