

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33413
Docket No. CL-34544
99-3-98-3-56

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

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11925) that:

1. Carrier acted in an arbitrary, capricious and unjust manner in violation of Rule 24 of the Amtrak/T.C.U. Agreement, when by letter dated August 2, 1996, it assessed the discipline of a twenty (20) day suspension, held in abeyance for one year, which activated a fifteen (15) day suspension which was previously assessed.
2. Carrier shall now expunge the charges and discipline from Claimant's work record.
3. Carrier shall compensate Claimant for any and all loss of pay as a result of the suspension.”

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.

Having carefully reviewed the record, on balance we find the Organization argument persuasive. The Carrier did not successfully meet its burden of persuasion. Therefore, no discipline is appropriate.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders than 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 13th day of July 1999.