

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 35611
Docket No. SG-35512
01-3-99-3-419

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company (former Southern
(Pacific Transportation Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Co. (Former Southern Pacific):

Claim on behalf of M. A. Travalini for payment of all time lost and benefits as a result of his dismissal from service and for any reference to this matter to be removed from his record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 53, 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 8, 1998. Carrier’s File No. 1136203. General Chairman’s File No. SWGC-1819. BRS File Case No. 10947-SP.”

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 charged with violating the Carrier's Rule regarding conduct careless of safety as well as its Rule prohibiting certain weapons on Carrier property.

Our review of the Hearing transcript does not reveal any procedural shortcomings of significance. Accordingly, there is no proper basis for concluding that the Claimant was denied a fair and impartial Investigation of the charges.

During the Hearing, the Claimant admitted having had a hand gun and live ammunition on Carrier property. He showed the gun to a co-worker. In addition, it is undisputed that the Claimant also had a knife on the property with a blade size in excess of that permitted by the Carrier's Rule. The Claimant also acknowledged that he was conversant with and fully understood the applicable Rule prohibiting the gun and the knife.

The testimony of the various witnesses also constitutes substantial evidence in support of the charge of carelessness of safety. The descriptions of the Claimant's inattentiveness while he was supposed to be flagging crossings showed his conduct to border on sleeping on the job.

Given the nature of the evidence presented, we find no proper grounds for disturbing the Carrier's disciplinary action.

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 24th day of July, 2001.