

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37186
Docket No. SG-37997
04-3-03-3-431

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp. (Amtrak):

Claim on behalf of R. L. Duckett, for Carrier to inform the Organization of its actions taken to rectify the harassment of the Claimant and the hopeful prevention of inappropriate harassment of the membership, account Carrier violated the Signalmen's Agreement, particularly Rule 58 (UNJUST TREATMENT) when on June 19, 2002, Carrier's Supervisor inappropriately accused the Claimant of sleeping in a company vehicle while on duty. It was determined that insufficient evidence was provided by the Supervisor to support his accusation. Carrier's action toward the Claimant was unjust treatment. Carrier's File No. NEC-BRS(S)-SD-978. General Chairman's File No. JY32101015-180210. BRS File Case No. 12750-NRPC(S)."

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 June 19, 2002, the Claimant's Supervisor allegedly observed the Claimant sleeping in a Carrier vehicle and reported the observation to the Assistant Division Engineer. The Assistant Division Engineer interviewed the Supervisor, the Claimant and other employees in the area and concluded that there was insufficient evidence that the Claimant was sleeping. No disciplinary charges were brought against the Claimant. The Claimant's record is clear and he was never subjected to formal disciplinary charges. Therefore, there was no unjust treatment under the Agreement.

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 28th day of September 2004.