

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37390
Docket No. SG-38055
05-3-03-3-452

The Third Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Canadian National Railway (Grand Trunk District))

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Canadian National (formerly CN/Grand Trunk Western):

Claim on behalf of T. L. Stewart, for him to be made whole for all time and benefits lost, account Carrier violated the current Signalmen's Agreement, particularly Rule 42, when it failed to provide a fair and impartial investigation evident when Carrier issued unwarranted discipline against the Claimant without first meeting its burden to prove the charges as a result of an investigation held on October 2, 2001. Carrier's File No. 8390-1-141. General Chairman's File No. 02-60-GTW. BRS File Case No. 12720-GTW."

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.

Thomas L. Stewart, employed in the Signal Department since May 18, 1992, was attending a class on September 24, 2002, when he was charged with a violation of General Rules B, H, and I for quarrelsome, discourteous, and belligerent conduct toward Supervisor R. J. Posler. The focus of the exchange was the fact that the Claimant had parked his company vehicle contrary to policy by not backing into a parking space. A second exchange occurred after lunch when the incident was reported. The record indicates that both parties share responsibility for the discourteous exchange. Employees are to be observant of Rules and regulations. Likewise, there is no need for a supervisor to belittle or treat subordinates with disrespect. The penalty invoked by the Carrier was excessive. The level of discipline depends on many factors, including the nature and consequences of the offense and the clarity of the Rule. Discipline must bear some reasonable relation to the seriousness or the frequency of the offense. Discipline in this case is reduced to ten days.

AWARD

Claim sustained in accordance with the Findings.

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 24th day of February 2005.