

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38228
Docket No. SG-39019
07-3-05-3-079

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

PARTIES TO DISPUTE: (**(Brotherhood of Railroad Signalmen**
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:

Claim on behalf of T. L. Somera, for his record to be cleared of any reference to the discipline imposed by Carrier as a result of an investigation held on January 23, 2004, account Carrier violated the current Signalmen’s Agreement, particularly Rule 68, when it failed to provide the Claimant with a fair and impartial investigation and then imposed a Level 2 Discipline against the Claimant without meeting its burden of proving its charges. Carrier’s File No. 1390048. General Chairman’s File No. W-68-361. BRS File Case No. 13109-UP.”

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 December 12, 2003 the Claimant did not report for work and did not formally contact his Foreman to notify him that he would not be protecting his assignment on that day. He neither asked for nor received permission to be absent. Rather, he sent a telephonic text message to his Foreman. Following an Investigation which was held on January 3, 2004, the Claimant was assessed a Level 2 discipline for failure to comply with instructions and obtain permission from his Foreman to be absent from duty. His discipline was appealed in March 2004 and was subsequently denied.

After carefully reviewing the record, the Board finds no evidence to support overturning or mitigating the discipline assessed by the Carrier. Accordingly, the claim must be denied.

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 25th day of June 2007.