

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 38997
Docket No. SG-39923
08-3-NRAB-00003-070076
(07-3-76)

The Third Division consisted of the regular members and in addition Referee Lisa Salkovitz Kohn 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 S. C. Suhl, for compensation for all lost straight time and overtime with all seniority and benefits unimpaired and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen's Agreement, particularly Rule 68, when assessed the excessive discipline of a 28-day suspension against the Claimant without providing a fair and impartial investigation and without meeting its burden of proving the charges in connection with an investigation held on February 6, 2006. Carrier's File No. 1440165. General Chairman's File No. N 68 599. BRS File Case No. 13701-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.

The Claimant was charged with a possible violation of the Carrier's EEO Policy, based on a report that on January 24, 2006, he made a racial remark to a fellow employee of African American descent, asking him "if I said Field N***er or Signal N***er would you be offended?" After an Investigation, the Hearing Officer determined that the Claimant was guilty of the charged offense. The Claimant was assessed a Level 4 suspension from service for 30 days without pay and required to participate in an EEO class prior to returning to work. The Organization appealed the discipline.

The Board concludes that the Claimant received a full and fair Investigation. Substantial evidence supports the discipline assessed.

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 27th day of March 2008.