

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 41769  
Docket No. SG-42233  
13-3-NRAB-00003-130056

The Third Division consisted of the regular members and in addition Referee Patrick Halter when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Railroad Signalmen  
(Kansas City Southern Railway Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern:

Claim on behalf of C. L. Rose, for reinstatement to his former position with all seniority and benefits unimpaired, compensation for all lost wages, including skill pay, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 35, when it issued the harsh and excessive discipline of dismissal 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 January 12, 2012. Carrier’s File No. K0612-0247. General Chairman’s File No. 12-008-MSR 185. BRS File Case No. 14766-KCS.”

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 parties timely processed this claim in the usual and customary manner during on-property exchanges up to and including the highest designated officer of the Carrier. Following conference without resolution, the claim was presented to the Board for final adjudication.

A thorough review of the record shows that the instant claim involves the Claimant's dismissal from the service of the Carrier. Prior to this proceeding, the Board adjudicated another claim (Third Division Award 41768) involving the Claimant's dismissal; the Board denied that claim. Because the Claimant's dismissal from service was upheld by the Board in Award 41768, the Board need not adjudicate the merits of the Claimant's dismissal in this proceeding. Accordingly, the instant claim is dismissed.

**AWARD**

Claim dismissed.

**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 November 2013.