

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Sidney St. F. Thaxter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim that Helper J. J. Payne should be returned to his former position and paid for wages lost due to improper discipline and suspension from the service; also that he be paid for expenses incurred by reason of being required to work in floating gang."

OPINION OF BOARD: This is a case of discipline. The facts are not in dispute as to the accident nor that it was caused by the negligence of the claimant. With one exception there is no suggestion that the procedure prescribed by Rule 54 was not followed.

The Committee claims that because the decision was not rendered within 15 days after the investigation was completed as prescribed by the rule, the Carrier was therefore without power to take any disciplinary action. We cannot agree with this contention in this case. In coming to this conclusion we need only suggest that discipline is not simply a matter which concerns the employees and the Carrier. The interest of the travelling public is directly involved; and it is the duty of the Carrier to take such measures to prevent negligent action by employees as will insure the safety of those who ride on its trains. No rights of this employee were prejudiced by the delay.

The Committee contends that the claimant, being merely a signal helper, should not have been entrusted with the operation of the motor car. But there is nothing in the record which indicates that an employee of this class is forbidden to operate such a car; and even so it is a question whether the Carrier would for such reason lose its prerogative to discipline an employee.

The Carrier was within its rights under the facts of this case in removing the claimant from the position in which he had been working and in transferring him to another position of the same classification and rate of pay. Award 1310.

It is not the function of this Board to review the judgment of the Management in a case of discipline. We can set aside the action taken only where it is so clearly wrong that we can say there has been an abuse of discretion. Award 891. See also Awards 71, 232, 280, 1310.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the record in this case shows no violation of the agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 9th day of July, 1941.