

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20887

Docket Number MW-21032

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Chicago and North Western Transportation Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The discipline of Maintenance Gang Foreman D. L. Pinkele (Disqualified as Foreman and Assistant Foreman. 10 days suspension, April 15 through April 26.) was improper, arbitrary, capricious and without just and sufficient cause (System File D-11-24-8).

(2) Claimant D. L. Pinkele be returned to his former position as maintenance gang foreman with seniority as such unimpaired and he be allowed eighty (80) hours of pay at the maintenance gang foreman's straight-time rate for the period April 15 through April 26, 1974.

(3) Mr. D. L. Pinkele also be allowed the difference between what he would have received at the maintenance gang foreman's rate and what he was paid at the rate of the position he occupied beginning April 27, 1974 continuing until he is returned to his former position as maintenance gang foreman.

OPINION OF BOARD: Claimant D. L. Pinkele, Maintenance Gang Foreman, was suspended for a period of ten days, and also was disqualified as a gang foreman and gang assistant foreman, due to Carrier having found him guilty of falsifying a rail report, bearing responsibility for sub-standard track repairs, and failing to protect Carrier's property from pilferage. There is evidence in the transcript of the formal investigation on the property which supports these charges. Claimant therefore engaged in serious failures to properly discharge his duties. Under the circumstances we are unable to find that the actions Carrier took against him constituted an abuse of its discretion.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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

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That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.