

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21047
Docket Number SG-21056

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company:

On behalf of Southern Division Signal Maintainer T. E. Green for reinstatement to service with all rights restored and pay for all time lost. /General Chairman file: 6-B-001. Carrier file: 14-680-120-17

OPINION OF BOARD: Claimant was dismissed from Carrier's service under the Brown system after accumulating 90 demerits. The critical instances occurred at Lyons, Texas on July 21, 1973 and Plantersville, Texas on July 19, 1973.

Claimant Green was called to Lyons for reported trouble with a crossing signal. He made a number of tests and noted that trains were passing the signal without reducing speed when he understood a train order had been issued. He left the crossing without checking the lights and that fact is established by his own testimony. Later another signal repairman was dispatched to the crossing and he replaced several burned out bulbs. The employees argue that the bulbs may have burned out after Claimant left the crossing and, of course, that is a possibility. However, Carrier viewed the evidence at the investigation as establishing a clear failure on Claimant's part to make a proper check of the crossing. Since the record shows that Claimant did not take the elementary precaution of looking at the signal lights to see whether or not they were burned out, the Board cannot agree that the evidence produced at the investigation failed to establish Claimant's culpability. On the contrary, the record rather clearly shows a serious failure on Claimant's part to carry out his assigned duties. A citizen who was not warned by the crossing signal could very well have found himself in the path of an oncoming train. The fact that Claimant had been on duty for a protracted period of time did not excuse him from making a proper check when he was called to the scene of reported trouble.

In the other incident, a battery burned out after the carbon became saturated. Claimant noticed the saturation on July 3 and failed to take any steps to make a replacement. The Organization, in its skillful representation of Claimant, brought out that his supervisor had left a cell which showed similar signs for a short period without replacing it. The period of time involved, however, was restricted and Mr. Green was advised promptly to make the replacement. There is a difference between that procedure, although it may have been ill-advised, and Claimant's leaving the battery, which clearly required attention, until it failed.

Other instances in which Claimant failed to carry out his responsibility are shown in the record. The Board finds that Carrier took the action it did on the basis of substantial evidence contained in the record of its investigations, and that no basis exists upon which it can properly reverse Carrier's decision.

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

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. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1976.