

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22173  
Docket Number CL-21994

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employes  
(  
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
GL-8315, that:

"(a) Carrier violated the Agreement at Knoxville, Tennessee, when it suspended Extra Board Clerk, Mr. G. D. Stair from service beginning September 25 and ending October 24, 1974 account calling Mr. B. O. Glandon an unqualified engineer for the Bulls Gap, Tennessee to Asheville, North Carolina run on Saturday, September 21, 1974.

(b) Carrier shall be required to compensate Mr. Stair for all time lost September 25 through October 24, 1974."

OPINION OF BOARD: Claimant holds seniority date of December 26, 1971 on the Knoxville District agent-operators' and clerks' seniority roster. On September 20-21, 1974, he was working off the clerks' extra board protecting a third trick crew caller's position, 11:00 P.M. to 7:00 A.M. At about 6:00 A.M. he was instructed to call an engineer with radio qualifications for a through freight, Bulls Gap, Tennessee to Asheville, North Carolina. He called one B. O. Glandon, an engineer who had radio qualifications but who was not qualified for the Bulls Gap to Asheville territory. Printed instructions noting that Glandon should not be used on that run were under the glass on Claimant's desk but he apparently did not notice them. Engineer Glandon accepted the call even though he knew he was not qualified, thereby compounding Claimant's mistake. En route between Bulls Gap and Asheville the train separated, apparently due to the inexperienced handling of Engineer Glandon.

Claimant was called before a formal investigative hearing following which he was suspended for thirty (30) days for failure to follow instructions in calling out Engineer Glandon. For the record, it is noted that Glandon also was brought up on charges as a result of the incident and likewise suspended without pay for 30 days.

We have reviewed the record and find that Claimant was accorded all of the due process to which the Agreement entitled him. The record more than supports Carrier's finding that he did not follow properly conveyed instructions, i.e., that he was negligent in the performance of his duties. It is true, but basically irrelevant to Claimant's culpability, that the engineer compounded Claimant's error by failing to inform Claimant that he was not qualified. See Awards 13643, 15978, 17269, 17761, 19433, 20557 and 20954.

The only question before us is whether the discipline imposed is so disproportionate to the offense committed that it can fairly be termed arbitrary, unreasonable or capricious. Negligence of the type involved in this case is not de minimis. The consequences in probable damage to property and danger to lives if unqualified operating employees are called to handle massive and powerful equipment over unfamiliar territory are too apparent to require elaboration. The purpose of discipline in such cases is not necessarily punitive but deterrent to insure that employees like Claimant will exert every effort in the future to avoid any recurrence. We cannot say that the 30-day suspension is unreasonable in light of Carrier's broad discretion under established precedent to assess discipline, even though the quantum might be greater than we would have applied in the first instance. Awards 21058, 20034, 14601, 14272, et al. The claim must be denied.

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 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.

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Claim denied.

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By Order of Third Division

ATTEST: A. W. Paulse  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1978.

