

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22432  
Docket Number MW-22294

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(Louisville and Nashville Railroad Company

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

(1) The record suspension of forty-five (45) days imposed upon Foreman T. E. Wolfe for alleged 'responsibility in connection with the loss of radio A-3564 on or about May 7 - 10, 1976' was capricious, arbitrary, without just and sufficient cause and on the basis of unproven charges [System File 1-16 (45)/D- E-306-127].

(2) The claimant's record be cleared of the charge placed against him in accordance with Rule 27(f)."

OPINION OF BOARD: Claimant, a foreman, was assigned a walkie-talkie radio which he left in his truck on Carrier's property over the weekend. When he returned to work on Monday morning, the radio was missing. Following investigation, Claimant was found guilty of negligence on the ground that he had neglected to take the necessary precautions to prevent loss of the radio. He was, accordingly, assessed a 45-day suspension against his record, with the injunction that he "comply strictly with the company's rules and special instructions."

One of the witnesses who testified at the hearing stated that Claimant left the radio on the dash of his truck; another witness and Claimant himself testified that the radio was left on the seat. The customary practice was to hide the radio under the driver's seat of the truck.

In view of the testimony, including Claimant's acknowledgment that he failed to take steps to conceal the radio, we find that Claimant was negligent and that the discipline meted out was not unreasonable or arbitrary under the circumstances. We will deny the claim.

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

The Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Parker  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of June 1979.

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