

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22488  
Docket Number SG-22431

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Burlington Northern Inc.

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern:

On behalf of Mr. W. R. Moore, Signalman, in Signal Crew #131, for reimbursement of five days compensation, when Carrier violated, Rule 54-C of the current Signalmen's Agreement and also, assessed him harsh and unfair discipline of five days actual suspension."  
[General Chairman's file C-77-115. Carrier's file SI-20 5/10/77 A.]

OPINION OF BOARD: Claimant, another Signalman, and an Assistant Signalman were assigned to change out wires between the signal head and a junction box. After completing the work they failed to make tests which are required by the rules.

Claimant and the other Signalman were both found to be at fault. Claimant was given five days actual suspension. The other Signalman was given only a reprimand. Carrier based its disparate treatment on the fact that Claimant was the senior employee and was in charge.

The record shows that the supervisor had not placed Claimant in charge of the work. At the investigation claimant said he was senior and "supposed" he was in charge. Notwithstanding what Claimant "supposed" there is no basis in the record for finding that Claimant was in a leading position. He and the other signalman were equally responsible for the improperly done work and should have received equal discipline. There were no circumstances, other than Claimant's seniority, to base a different measure of discipline upon.

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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 discipline was excessive.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A.W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1979.