

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22702
Docket Number TD-22422

Robert A. Franden, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(
(Chicago, Rock Island and Pacific Railroad Company
(William M. Gibbons, Trustee)

STATEMENT OF CLAIM: (a) The Chicago, Rock Island and Pacific Railroad (William M. Gibbons, Trustee), hereinafter referred to as "the Carrier", violated the Agreement in effect between the parties, Article 7 thereof in particular, by its action in assessing discipline in the form of ninety (90) days actual suspension as a result of an investigation held December 21, 1976. That said discipline is arbitrary, harsh, unwarranted, and an abuse of managerial discretion.

(b) Carrier shall now rescind the discipline assessed, clear Claimant's employment record of the charges which provided the basis for said action, and to compensate Claimant for wage loss suffered due to Carrier's action.

OPINION OF BOARD: Claimant Train Dispatcher was suspended from the service of the Carrier for 90 days after an investigation wherein it was found that he had authorized both an Eastbound and a Westbound train the use of the main track at the same location at the same time creating thereby a lap of authority.

There is no question but that the Claimant did issue the authorization to both trains. The Engineer on 4533 West, however, did not accept his authority but called to the dispatcher's attention the fact that he had previously authorized use of the same trackage by 4539 East. The Claimant then cancelled his authorization and corrected the lap of authority.

There is no question but that the Claimant's actions were in violation of the Carrier's rules governing the movement of trains and engines by voice control. Further, the breach was serious in that it could very well have caused a head-on collision. We think the ninety-day suspension was not an unduly severe punishment for the violation. 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

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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.

