

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23914
Docket Number SG-23450

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Burlington Northern Railroad Company

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

Burlington Northern has unjustly dismissed Mr. W. D. Campbell from service and in so doing violated Rules 54-C and 56 of the current Signalmen's Agreement.

Carrier should now be required to reimburse Mr. Campbell for all time lost and clear his personal record of any reference to the investigation leading to his dismissal."

(General Chairman's File B-79-195 Carrier File SI-20 6/5/79)

OPINION OF BOARD: Claimant was notified of an investigation concerning responsibility in connection with a collision. Subsequent to the investigation, the Employee was dismissed from service, but was reinstated some fifteen months later.

We are unable to find that the charge was defective and thus we will consider the dispute on its merits. Further, we fail to find that the Employee made any proper basis for the production of a witness. A Carrier may not deprive an Employee of a means of defending himself nor may it treat an accused in a devious manner. But there is nothing of record here which suggests such a scheme by this Carrier.

Limiting our review to matters properly before us, we find the record to be rather clear. There was a collision on December 20, 1978. Faulty equipment led, or contributed, to the accident, and the equipment was under the control of the Claimant. Further, the evidence supports a conclusion that Claimant was less than diligent in his maintenance of the equipment.

The Employees have raised certain speculation, but have produced nothing of record to warrant resolution of the dispute based upon that speculation.

If the evidence supports the Carrier's conclusion of guilt, it is not incumbent upon us to substitute our judgment.

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 Employee 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.

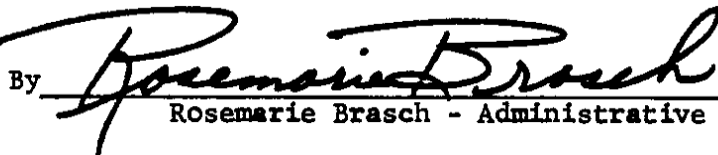
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By



Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 8th day of June 1982.