

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24012
Docket Number SG-24055

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (former Lehigh Valley Railroad) involving the question:

That Signal Maintainer John Eorio be paid for all benefits and time lost due to his suspension from service for a period of sixty three days commencing May 9, 1980."

OPINION OF BOARD: The Claimant, Signal Maintainer John Eorio, after investigation, was suspended for a period of 63 days commencing on May 9, 1980. The Organization claims that Carrier failed to establish that Claimant was guilty of any offense.

At the time of this discipline, Claimant was assigned as a Signal Maintainer at South Plainfield Garage, South Plainfield, New Jersey. His regular tour of duty was from 7:00 A.M. to 3:30 P.M.

The incident which led to Claimant's discipline occurred on May 8, 1980. During that day Claimant performed signal revision work at Krimko Switch, which was within his assigned territory. Carrier asserts that Claimant performed this work improperly. Specifically, it argued that Claimant removed the signal circuits from the circuit controller without proper point protection. In addition, according to Carrier, Claimant failed to perform the required testing of the signals system which, as a consequence of the signal revision, showed a false proceed signal at Signal 191.

After discovery of the problem on Signal 191 on May 9, 1980, Claimant was removed from service. As a result of this incident, Claimant was notified to attend an investigation on May 16, 1980 in connection with the following charges:

"Alleged violation - General Instructions C&S 23 #7
Alterations or additions must not be made to any individual components or systems involving signal apparatus or circuits unless properly authorized.

"Alleged violation - General Instructions C&S 23, #25 -
When any changes are made, sufficient tests shall be performed promptly to assure signal system is functioning as intended. All such modifications shall be recorded on C&S 4 by the responsible man making the changes.

"Alleged violation - Changes and Tests Incident thereto C&S 23 #257 - Before final cutover, all circuits changed must be thoroughly tested as far as possible, and final arrangement must be tested in entirety by a supervisory employee other than the man in charge.

"Insofar as you removed the signal circuits from the circuit controller at Krimko Switch, on May 8, 1980 leaving the switch without point protection and not properly testing the Signal System when work was completed. Resulting in a false proceed signal at 191 Signal location track #1, which was discovered by Assistant Supervisor F. Wilcewski on May 9, 1980."

On June 4, 1980, Carrier informed Claimant that he had been found guilty of the charges brought against him. He was informed that he was dismissed from Carrier's service.

At a later date July 11, 1980, Carrier informed the General Chairman that the discipline imposed was to be changed to a suspension consisting of all the time held out of service. As a result, Claimant returned to service on July 15, 1980.

After reviewing the evidence on the record, we must conclude that Carrier shouldered its burden of establishing that Claimant is guilty of violating the rules quoted in the charge. Stated simply, we are persuaded that Claimant failed to provide sufficient point protection on the Krimko Switch on May 8, 1980. His actions resulted in a false proceed signal at 191 Signal which could have resulted in a serious accident. Nothing in the record convinces us that Claimant's action was appropriate.

The final question that remains is whether the imposed penalty is appropriate. This Board has repeatedly determined that it will not overturn penalty assessed unless that penalty is arbitrary, capricious or excessive. Given the seriousness of a proven offense, we are convinced that the penalty here is not arbitrary, capricious or excessive. Thus, we will deny the claim in its entirety.

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 Employee 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

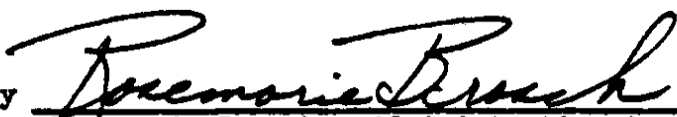
That the Agreement was not violated.

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 20th day of October 1982.