

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24170
Docket Number MW-24355

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Norfolk and Portsmouth Belt Line Railroad Company

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

(1) The fifteen (15) days of suspension imposed upon Crane Operator L. L. Blankenship, Sr. for alleged failure 'to carry out instructions given to you by Mr. Dingus at the start of work on Friday, November 7, 1980' was without just and sufficient cause and on the basis of unproven charges.

(2) The claimant's record be cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: In late November, 1980 the Claimant was advised of an Investigation concerning a charge that he failed to carry out instructions. Subsequent to the Investigation, the Claimant was suspended for fifteen (15) working days.

Certain procedural matters have been raised by the parties however we feel it unnecessary to consider same because of our Decision on the merits of the case. The record contains evidence to support the conclusion of the Carrier that on the date in question the Claimant received certain instructions specifically relating to the crane assigned to him and an admonition not to take the crane out of service. Nonetheless, the Claimant failed to abide by those instructions.

We are not unmindful of the contentions advanced by the Claimant in this case nor are we insensitive to his long years of service. Nonetheless, this Board is not constituted to make credibility determinations, and in this particular case there is sufficient evidence to support the Carrier's conclusions. We have no alternative but to deny the grievance. Additionally, we cannot find that the punishment assessed is inordinately severe and we will allow it to stand.

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 15th day of February 1983.

