

4 S.D.P.
SM
NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24246
Docket Number SG-24402

Ida Klaus, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Norfolk and Western Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company:

That Leading Signalman W. P. Bath be paid for all time lost due to five day actual suspension assessed for his alleged violation of Carrier Safety Rules 1041 and 1002 on the dates of June 5th and 18th, 1980."

OPINION OF BOARD: The Claimant was assessed a five-day suspension as a penalty for violation of Safety Rules by failure, while at work as a Lead Signal Maintainer, to wear a hard hat on two occasions and a shirt on a third occasion.

The Organization contends that the penalty was unjustified, because the hard hat rule was rendered "almost inoperative" through "loose enforcement" and the shirt requirement did not exist.

We find clear support in the record for the hard hat charge. The Claimant has admitted that he failed to wear his hard hat in knowing disregard of the rule and of his Supervisor's direct instructions.

We do not, however, find sufficient support in the record to sustain the charge of rule violation with respect to the failure to wear a shirt. The rule the Carrier relies upon requires employes to be "suitably clothed" for safe performance of duties and specifically regulates the kind of clothing that may safely be worn. In our view, the regulation as to shirts specifies what is the suitable way a shirt can safely be worn at work. It does not affirmatively require that a shirt actually be worn as a safety measure.

The sole issue remaining is whether the five-day penalty for the violation of the hard hat rule alone was fair and reasonable on the evidence shown. We conclude that it was not. While affirming, once again, the compelling importance of compliance with safety rules, we nevertheless believe, in view of the Claimant's 32 years of service without any evidence of prior discipline, that a three-day suspension is appropriate. Our Award will so provide.

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 in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of March 1983.

