

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24334
Docket Number MW-2451

William G. Caples, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation
(formerly The New York, New Haven & Hartford Railroad Company)

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

(1) The ten (10) days of suspension imposed upon Track Foreman Paul Simons for 'allegedly changing your testimony as given to Patrolman Richard Bowes on October 22, 1979, regarding the whereabouts and activities of Boom Truck Driver, James Oliver, on August 28, 1979, as subsequently given to the District Attorney on April 3, 1980' and for 'alleged violation of Rule D, sub-paragraph 3' was arbitrary, capricious, unwarranted and on the basis of unproven charges (System Docket No. NH-49).

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

OPINION OF BOARD: The argument of the Organization against the Carrier is that it based its judgment solely upon the resolution of a conflict in testimony between the Claimant and a Security Officer. The entire record is not that narrow. There is other sustaining oral and written evidence that, as a minimum, established a per se prima facie case which was not rebutted. The evidence before the Board is sufficient to sustain the charge against the Claimant.

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.

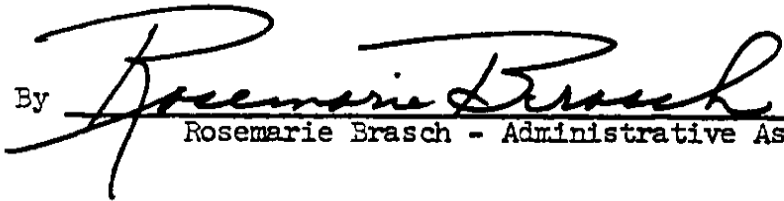
A W A R D

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 27th day of April 1983.

