

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24416  
Docket Number SG-24265

George S. Roukis, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen  
{ Southern Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company, et al.:

That Leading Signalman J. G. Taylor be paid for time lost while suspended for 60 calendar days, August 11 - October 9, 1980, and that his record be cleared of all charges, because he was unjustly suspended after Carrier held two investigations at Albany, Georgia, on July 17, 1980." (General Chairman file: SR-191. Carrier file: SG-464)

OPINION OF BOARD: In this dispute Claimant was charged with two (2) separate disciplinary infractions and two (2) separate investigations were held on July 17, 1980 at Albany, Georgia. On May 27, 1980 Claimant was charged with violating Rule 2 of the Rules and Instructions Governing the Use and Protection of Highway Motor Vehicles and on June 5, 1980 he was charged with disobeying instructions not to operate company vehicles and for violating Rules 15 and 28 of the aforesaid rules and instructions governing highway motor vehicles. Based on the investigative record, Claimant was found guilty of all charges and notified by letter, dated August 4, 1980 that he was suspended from service for sixty (60) days. This disposition was appealed on both procedural and substantive grounds.

In considering Claimant's procedural arguments, namely, that Carrier notified him of its disciplinary findings and determination after the Agreement prescribed twenty (20) days notification period, we cannot agree that the penalty notice was untimely. It was rendered on August 4, 1980 and thus, within Agreement Rule 23's required time limitations.

As to the substantive charges, we must concur with Carrier that the record evidence conclusively demonstrates that he violated the rules cited. Claimant was stopped on May 13, 1980 by the Georgia State Patrol and given a citation for driving on a suspended Kentucky driver's license. There is no evidence that he possessed a valid driver's license at this time and his behavior constituted a clear and direct violation of Rule 2, which requires in part, that a carrier driver must hold a proper driver's license in the state in which he is headquartered. Claimant was advised on May 21, 1980 by Foreman F. J. Blackburn not to operate any company vehicle, which he patently disregarded on May 28, 1980, when he drove a company vehicle in a parking lot which resulted in an accident. He had backed the vehicle into a parked car without undertaking the necessary precaution required by Rule 15 and such behavior pointedly reflected careless driving. While he contends that he possessed a valid Tennessee license at the time, we have no evidence that he did so. He did not submit proof to Carrier that he had a valid license after the police citation was issued or at

the time he was specifically directed by Foreman Blackburn not to drive any company vehicles. The record indicates that he applied for a duplicate Tennessee license on June 2, 1980, but it appears that his application for this license contained serious misstatements of fact, which by definition would vitiate it. We can only conclude by the evidence before us that he did not possess a valid bona fide driver's license on May 13 and 28, 1980, which violated Rule 2 of the Rules and Instructions Governing the Use and Protection of Highway Motor Vehicles and his driving mishap which occurred on May 28, 1980 was singularly his fault. The sixty (60) days suspension was neither excessive nor an abuse of managerial discretion, but was reasonable and fair, when the magnitude of his violations are objectively considered. It was fortunate for all parties that he was not involved in a more serious life threatening incident.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

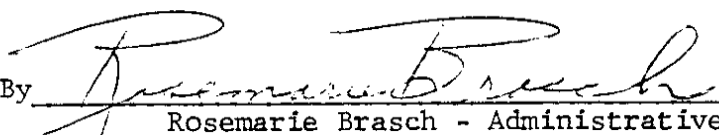
That the Agreement was not violated.

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 June 1983.

100-700