

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24773
Docket Number SG-24696

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Gulf Railroad:

On behalf of Signal Maintainer C. C. Schilaci, who was suspended ten days, May 18-29, 1981, for: (1) \$848.00 straight time pay, (2) Any overtime pay which would have accrued had he not been suspended, (3) Any benefits which would have accrued had he not been suspended and, (4) Striking from personal file and all other company records the investigation, discipline and all references thereto, [Carrier file: 135-296-43 Spl. Case No. 381 Sig.]

OPINION OF BOARD: By letter dated April 16, 1981, the Claimant, C. C. Schilaci, was notified by the Carrier to attend a formal investigation on April 24, 1981 to determine his responsibility, if any, with respect to failure of signal 6-1989 on April 9, 1981. This failure resulted in a false proceed signal at the crossover between tracks 6 and 7 near Harvey, Illinois on the date in question. After request for postponement by the Organization the hearing was held on May 5, 1981. The Claimant received notice dated May 14, 1981 by which he was informed that he had been found guilty of failure to make proper signal tests and inspections to Carrier's facilities. As a consequence, the Claimant was suspended for ten (10) work days.

A review of the record shows that a cause of the signal malfunction was the removal of a switch controller box by another craft prior to April 9, 1981. Since the signal was in Claimant's territory, however, it is reasonable to assume that the signal malfunction would not have occurred if Claimant would have been making his periodic signal checks at which time the absence of the signal box would have been ascertained. During the hearing the Claimant testified that an inspection of the switch at the location in question had not been made for some two months prior to the incident at bar. There is sufficient substantial evidence here to warrant conclusion that Claimant is guilty of negligence. And substantial evidence has been defined as such "relevant evidence as a reasonable mind might accept as adequate to support a conclusion" (Consol. Ed. Co. vs Labor Board 305 U.S. 197, 229). In view of the record before the Board, therefore, as well as Claimant's personal record which was introduced into the hearing on property, which latter must be viewed not with respect to the merits of this case, but with respect to the quantum of discipline, this Board cannot conclude that Carrier's determination in this matter was capricious nor arbitrary.

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

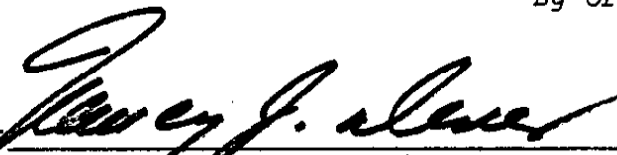
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 13th day of April, 1984