

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24953
Docket Number MW-24908

Hyman Cohen, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Seaboard Coast Line Railroad Company

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

(1) The discipline (letter of reprimand) imposed upon Trackman L. Reyna and J. Capehart for allegedly 'not working as fast as you could or should have' on October 28, 1980 was without just and sufficient cause and on the basis of unproven charges (System File C-4 (13)-JC/LR: 12-39(81-41) G).

(2) The letter of reprimand (dated November 3, 1980) referred to in Part (1) hereof shall be removed from the claimants' respective personal records."

OPINION OF BOARD: The instant claim was filed with the Carrier because "Discipline" was imposed against the Claimants "without just and sufficient cause and on the basis of unproven charges."

On October 28, 1980, Roadmaster T. C. Simmons observed the two (2) Claimants along with two (2) other trackmen assisting in the rebuilding of a road crossing. He felt that the employees were working at a much slower pace than normal and discussed their work performance with them. On November 3, 1980, he confirmed his discussion with them by letter which was placed in their personnel record files. Each of the letters set forth the following:

"On Tuesday, October 28, 1980, at Dade City, Fla., I had opportunity to watch each of you working for a period of several hours. After such observation it was my opinion that none of you were working fast enough and as a result your work production was below that necessary. I stopped you from working, called you together in a group, and talked to you concerning this.

You should consider this letter as formal notice that your work performance is unsatisfactory. In plain words, you do not do enough work to qualify for the pay that you receive. You must in the future, at least, do as much work as others in the same circumstances. If you continue to work at the rate that you are now working you cannot expect to remain on the payroll of the Railroad.

I urge that each one of you think about this and improve your work performance. Please remember that there are good men now furloughed who would appreciate an opportunity to have your job on a permanent basis.

I expect each one of you to cooperate with me in this."

Two (2) of the trackmen, J. Lee and H. D. Allen, are not Claimants.

Based upon the record, the Board concludes that Roadmaster Simmons' letter did not constitute disciplinary action; nor did he intend such letters to be disciplinary action. Rather, the letter put the Claimants on notice to avoid such occurrences in the future. As stated in Second Division Award No. 8062:

"*** letters of warning are an important and necessary device that can change an Employee's behavior and put him back on the track without the stigma of being disciplined and having this become a part of his personnel file and his work record."

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

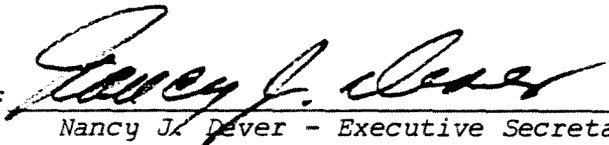
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1984.