

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25031
Docket Number MW-25119

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific Railroad Company

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

(1) The forty-five (45) demerits imposed upon Mr. R. T. Bridges resulting in his dismissal for alleged violation of "General Rule B, General Regulations 700, 702 and 702(b) on January 28, 1982, January 29, 1982, and February 1, 1982, in the vicinity of Kelso, California" was without just and sufficient cause (System File 5-19-12-14-55).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The Claimant was notified to attend an investigation to develop the facts and determine responsibility concerning his absences from work on three separate dates, as well as his responsibilities for incidents involving his behavior, which were considered to be insubordinate and quarrelsome by the Carrier.

Subsequent to the investigation, the Claimant was notified that he had been found guilty and assessed 45 demerits which, when added to those already on the Claimant's record, made a total of 120 demerits. The Claimant was then removed from the service because of the excessive accumulation of demerits.

The Organization, as brought forth in the record, vigorously advances its claim on a number of procedural contentions, as well as on the merits.

Accordingly, this Board has carefully reviewed the investigative transcript, as well as all of the other materials in the record before us, to insure that the Claimant's rights were not violated. While we find, as did the Carrier, that the Hearing Officer's performance was not "exemplary", it did not deprive the Claimant of due process.

We do not find, after conducting this examination of the entire record before us, that the Carrier acted in a singularly prejudicial manner in this proceeding.

With respect to the merits, we find sufficient evidence to support the finding of guilt. As stated a number of times by this Division, it is not incumbent upon this Board to reduce the penalty assessed by the Carrier unless it is found to be arbitrary and/or capricious. No such conclusion is supported by the record, in the instant case, and the claim is denied.

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 26th day of September 1984.