

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25472
Docket Number TD-25175

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
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(Boston and Maine Corporation, Debtor

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association:

Claim #1 - 10-days suspension plus 48 demerits

Request that the discipline of 10-days suspension plus 48 demerits imposed on Train Dispatcher D. S. Robinson in Notice No. 15 Discipline Record dated December 23, 1981 be withdrawn, that his personnel file be cleared of the matter, and that he be reimbursed for any time lost and/or expenses incurred in connection therewith.

Claim #2 - Disqualification as Train Dispatcher

Request that the discipline of disqualification as train dispatcher be rescinded, that he be immediately restored to service, that he be compensated for any and all losses and/or expenses in connection with this matter, that he be placed again upon the position which he owned at the time he was removed from service, and that the matter be dropped from his personnel file and never be referred to again.

OPINION OF BOARD: The Claimant, D. S. Robinson, was, after an investigation, issued a ten-day suspension and forty-eight demerits for the issuance of improper Order No. 210 on October 9, 1981, while on duty as Train Dispatcher. Subsequently, the Claimant was disqualified as Train Dispatcher for the issuance of two improper Train Orders, Nos. 201 and 202 while on duty January 27, 1982. The record establishes that the Claimant did issue overlapping Train Orders in both instances of discipline. The record does not disclose any prior disciplinary entries in the Claimant's train dispatching career which began in 1954 other than the two instances herein cited which occurred within a four-month interval. Disqualification as a Train Dispatcher is a form of discipline that is continuing in nature. We believe it has now served its purpose and will exceed the bounds of reason if permitted to continue. Claimant's disqualification as Train Dispatcher will accordingly be terminated, but without compensation for lost time or earnings as a Train Dispatcher. Claimant's previous seniority date is to be restored, and he shall be given the opportunity to requalify on the duties of the position to the extent necessary to be reinstated to his former position.

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 violated to the extent indicated in the Opinion.

A W A R D

Claim No. 1 denied.

Claim No. 2 is sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May 1985.