

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25584

Docket Number MW-25747

Stanley L. Aiges, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Consolidated Rail Corporation

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

(1) The disciplinary demotion of Track Foreman A. Bigelow and his disqualification as track foreman and assistant track foreman for "alleged improper reporting of overtime for yourself and your gang for Thursday, March 4, 1982" was without just and proper cause and on the basis of unproven charges [System Docket CR-33(D)].

(2) Mr. A. Bigelow's seniority as track foreman and assistant track foreman be restored and unimpaired and he shall be allowed the difference between what he would have received at the track foreman's rate and what he was paid in a lower rated position until he is returned to work as a track foreman with seniority as such unimpaired.

OPINION OF BOARD: A. Bigelow was disqualified as a Track Foreman and Assistant Track Foreman for his alleged improper reporting of overtime for him and his gang on March 4, 1982. No useful purpose will be served by detailing the record produced in this case. Suffice it to say that the record fully supports a finding that Claimant Bigelow is guilty of the charges levied against him. Indeed, at the hearing, he freely admitted that he had failed to report time he and his gang worked on March 4, 1982. His actions clearly exposed him to appropriate disciplinary action.

We are convinced that the Carrier's decision to demote Claimant Bigelow was warranted. However, we are no less convinced that permanent demotion is an excessive penalty. The discipline imposed thus far has served its purpose. Accordingly, we will order his seniority as Track Foreman and Assistant Track Foreman restored unimpaired, but without compensation.

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 discipline was excessive.

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1985.

