

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25850
Docket Number CL-25967

Herbert L. Marx, Jr. Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9947)
that:

"(1) Carrier violated the Agreement between the parties when it arbitrarily and injudiciously assessed Operator C. A. Presswood's record with twenty (20) days actual suspension without justification.

(2) Carrier's action was unjust, arbitrary and an abuse of descretion.

(3) Carrier shall now be required to expunge the charges, record of investigation and discipline from Clerk Presswood's personal files and to compensate Clerk Presswood for all wages lost account Carrier's action."

OPINION OF BOARD: Following an investigative hearing, Claimant, an Operator at Mineola, Texas, was assessed a disciplinary penalty of 20 days' actual suspension for "failure to properly issue Train Order No. 903 to Extra 3238 East (122-07 train)". The Dispatcher involved in the incident also received a twenty-day disciplinary penalty.

Although it appears that some responsibility was shared by the Operator on the previous shift, the record indicates that the Claimant failed to transmit the specified Train Order, which warned of a "double load" involving close clearance. Greater attention to the train orders in hand would have (or should have) made the omission apparent to the Claimant. The Board finds, however, that the penalty was unduly harsh and disproportionate in view of the circumstances in which the Claimant was not solely at fault, and the discipline is to be reduced from twenty (20) days to fifteen (15) days.

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

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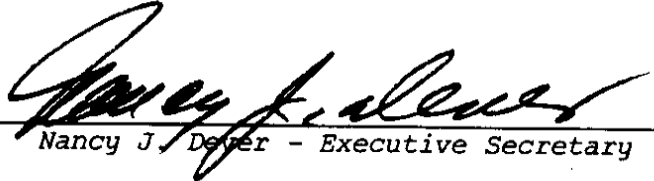
That the discipline was excessive.

A W A R D

Claim 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 13th day of January 1986.

