

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25922
Docket Number SG-25928

Charlotte Gold, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood
of Railroad Signalmen on the Southern Railway Company
et al:

Appeal on behalf of Signal Maintainer S. B. Duvall, who was
suspended for five days beginning June 27, 1983, for his alleged
responsibility for the loss of a radio (lost or stolen, but later recovered)
on May 2, 1983. [General Chairman file SR-319. Carrier file SG-575]"

OPINION OF BOARD: On May 2, 1983, Claimant, a Signal Maintainer, reported
the loss of a portable radio that had been issued to him.
By letter dated May 11, 1983, he was charged with violation of Rule 54 of the
parties' Agreement, Rule 37(a) of the Southern Railway Operating Rules, and
Rule G-9 of the Communications and Signal Department Rules and Standards.
Rules 54 and 37(a) relate to the use and proper care of radio equipment
assigned to employees. Rule G-9 states that employees must thoroughly
understand and comply with applicable Rules.

An investigation was held on June 2, 1983, following which Claimant
was adjudged guilty and assessed a five-day suspension. That decision was
appealed by the Organization and when the appeal was not satisfactorily
resolved on the property, it was advanced to this Board for a final
determination.

The record of the investigation was made a part of the record of
this case. That record reveals that Claimant did, in fact, fail to take
proper care of the radio equipment entrusted to him on the day in question.

While Claimant was working at Henderson Crossing, he left a portable
radio (a "handie-talkie"), valued at \$1,000, on the seat of his unlocked
truck. Claimant acknowledged that he was aware that there had been a high
incidence of vandalism in the area and that he understood what was required of
him to protect Company property.

In light of the fact that Claimant's record reveals a prior incident
(for which no discipline was assessed) in which a new tire and a wheel was
stolen from a Carrier vehicle assigned to him, he should have been especially
aware of the need to exert extreme diligence in the use and care of Company
equipment. The imposition of a five-day suspension is not excessive, given
the nature of the proven offense, and we cannot conclude that the discipline
imposed was either arbitrary or capricious. The fact that the radio was
subsequently recovered by the Police when someone sought to sell it does not
diminish Claimant's responsibility.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1986.

