

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26201
Docket Number SG-26317

Philip Harris, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Consolidated Rail Corporation (Conrail))

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):

On behalf of L. E. Thompson for reinstatement to service with all rights and benefits restored beginning on October 16, 1984, account of his being dismissed for incident which took place on September 8, 1984. Carrier file SD-2147-D."

OPINION OF BOARD: As a result of a derailment on September 8, 1984, Claimant was dismissed in all capacities because he violated Rules 51 and 300 which concern the measures to safely test devices and the prohibition against inverting relays to close contacts. On the day in question there was trouble with the indication lights that show whether or not a track is clear. While Claimant was checking the trouble a false indication was given to the Tower Operator who then threw the switches, derailing a train that was passing over them. The Carrier says that the Claimant overrode the safety system by inverting the relays. He denied doing so, and the Organization claims that the burden of proof was not met by the Carrier. Also, there was new evidence found after the Hearing which allegedly supported the Claimant.

The Board looks to the Carrier as the trier of facts to determine if a full and fair Hearing was conducted. Upon reviewing the record we find no reason to believe otherwise. After the derailment a thorough Investigation was made by several people to determine the cause of the accident. Their conclusion was that the relay inversion was the only conceivable way for the false signal to appear, and Claimant was the only one at work on the relay at the time. He did admit to rewiring a battery while trouble-shooting, but this does not override the safety system. Concerning new evidence, Boards will consider only the records developed at the Hearing on the property. The Claimant seeks to be made whole from the time of his dismissal to October 14, 1985, when the Carrier reinstated him.

The Board agrees with the Carrier that the evidence in the record is substantial. The discipline assessed for the very serious infraction was not unreasonable.

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. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1986.