

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26347
Docket Number SG-25918

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(The Chesapeake and Ohio Railway Company
(Pere Marquette District)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pere Marquette District of The Chesapeake and Ohio Railway Company that:

(a) Carrier violated the parties' Agreement, particularly Discipline Rule 701, in that (1) charge against Signal Maintainer J. R. Williams was too vague to allow the accused and his representative to prepare a defense; (2) all reference to events occurring ten (10) days prior to the letter of charge dated April 11, 1983 must not be considered in assessing discipline due to Claimant Snyder not being charged 'within ten (10) days of the company's knowledge of the alleged offense' and (3) without prejudice to that position, the discipline administered in this case is excessive for the offense with which charged.

(b) As a consequence of such action, Carrier be required to make Claimant J. R. Williams whole for wage loss incurred pursuant to paragraph (h) of Discipline Rule 701.

[General Chairman file: 83-6-PM(1). Carrier file: SG-694]"

OPINION OF BOARD: By letter dated April 11, 1983, Carrier notified Claimant to appear for a hearing in connection with the following charge:

You are charged with responsibility for failure to comply with your supervisor's instructions, including making required Company and DOT tests and inspections, and failure to properly maintain your territory."

On June 13, 1983, Carrier found Claimant guilty as charged and assessed him a thirty day actual suspension.

The Organization timely appealed Carrier's decision. Carrier rejected the appeal. Upon the parties' failure to resolve the dispute on the property, the matter was advanced to this Board for adjudication.

The Organization contends that the charges were vague and failed to specifically apprise him of what he had allegedly done wrong. In its view, Claimant went into the hearing without knowing what instructions he had failed to comply with, which tests he had not made and which part of his territory he had not maintained. Thus, the Organization insists that Carrier's notice of charge did not permit Claimant an opportunity to prepare an adequate defense.

In addition, the Organization asserts that Carrier had knowledge of alleged wrongdoing by Claimant more than ten days prior to the filing of these charges. Therefore, the Organization argues, the charges were untimely pursuant to Rule 701(b) of the Agreement.

Finally, the Organization maintains that a thirty day penalty is excessive. It points out Claimant has 37 years of service with Carrier. As the Organization sees it, a 30 day suspension is unwarranted for allegedly minor infractions considering Claimant's long service with Carrier. For these reasons, then, the Organization asks that the Claim be sustained.

Carrier, on the other hand, argues that it acted properly under the facts of this case. It contends that Claimant clearly knew the nature of the charges against him. In Carrier's view, Claimant's failure to perform required tasks constitutes a serious offense and warrants a thirty day suspension, despite his 30 years of service. Therefore, Carrier asks that the Claim be rejected.

A review of the record evidence convinces the Board that the Claim must fail. This is so for a number of reasons.

First, it is clear that Carrier officials had numerous meetings with Claimant prior to the filing of charges, in an effort to improve his job performance. Thus, when he received the charges, Claimant was fully aware what the problems were in connection with his alleged failure to properly maintain his territory, conduct tests, etc. Consequently, the charges were sufficiently specific to allow Claimant to prepare an adequate defense.

Second, we are convinced that the charges were timely filed. Carrier did not decide to charge Claimant until April 11, 1983, as a result of an inspection conducted April 7, 1983. Thus, while Carrier had some knowledge of Claimant's deficiencies prior to April 7, the inspection on that date directly led to the notice of hearing. As such, Claimant was notified within ten days after Carrier had "knowledge of the alleged offense" (Rule 701(b)).

Finally, the record contains ample evidence to support Carrier's finding of guilt. A review of the transcript reveals that Claimant had been repeatedly informed to make required inspections and tests. Yet, Carrier's inspection on April 7, 1983, demonstrates that Claimant failed to comply with these directives.

Maintaining signals is an important function. Its relationship to safety of persons and property is obvious. Thus, we are convinced that a thirty day suspension is appropriate for Claimant's dereliction of duty, despite his many years of service. Accordingly, and for the foregoing reasons, the Claim must fail.

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

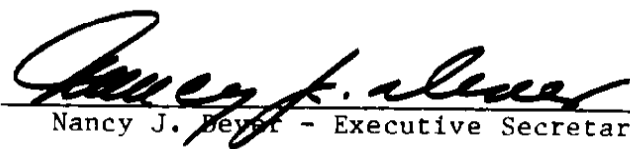
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of June 1987.