

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26497
Docket Number MW-26448

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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

(1) The Agreement was violated when David Dube, Dennis Dube, Carol Brown, Vanessa Thomas and Joel Vernon were suspended from service for four and one-half (4 1/2) hours on November 15, 1983 without just and sufficient cause and without benefit of a trial as required by Rule 68 (System File NEC-BMWE-SD-790).

(2) The claimants shall each be allowed four and one-half (4 1/2) hours of pay at their respective straight time rates."

OPINION OF BOARD: Claimants were members of a Track Gang, with assigned hours of 10:00 P.M. to 6:00 A.M. On November 15, 1983, under direction of an Acting Foreman, the Gang was transported by van to a work train, in rainy weather conditions. Upon arrival at the work train, conversations ensued between the Acting Foreman and the Claimants. As a result, Claimants were returned to their starting point, with pay stopped at 1:30 A.M. Claimants seek pay for the remainder of the eight-hour shift.

The Organization contends that the Acting Foreman arbitrarily disciplined the Claimants by suspending them for the remainder of the shift and did so without meeting the requirement of Rule 68; that is, without providing a Trial prior to such discipline. The Carrier contends there was no discipline involved and that it simply was a case of not paying employees for work not performed.

Under the circumstances advanced in this dispute, it is the opinion of this Board that Carrier overreacted to the alleged inaction of the Claimants. It is, therefore, the Board's Opinion that the claim be sustained.

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

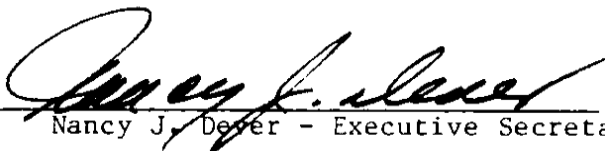
That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.