

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26702
Docket Number MW-27212

Ronald L. Miller, 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 twenty-eight (28) days of suspension imposed upon Lineman M. Hemphill for alleged violation of NRPC General Rules of Conduct, Rules 'A', 'I' and 'K', was without just and sufficient cause (System File NEC-BMWE-SD-1227D).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: On February 12, 1985, the Claimant met with his Supervisor. During the course of that meeting, which the Supervisor stated was for the purpose of counseling, a disagreement arose, and subsequently, the Claimant left the meeting. There is substantial evidence, including the testimony of the Claimant, that he left the meeting against the specific, clear and repeated instructions of his Supervisor not to do so. Moreover, the Claimant was warned that by leaving, he would be charged with insubordination. For reasons not made clear in his testimony, and despite warnings, he left anyway. There is no evidence in the record that supports his contention that his Supervisor provoked him to leave the meeting. The Claimant was insubordinate.

However, the Carrier has not persuasively established that the level of discipline is appropriate. Discipline must be reasonably related to the gravity of the offense, the circumstances of the misconduct, and the past record of the employee. The correction of excessive discipline is properly a function of this Board. In this matter, a fourteen (14) days disciplinary suspension would accomplish the intended purpose.

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

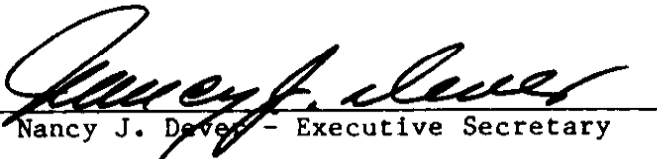
That the discipline was excessive.

A W A R D

Claimant sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Daves - Executive Secretary

Dated at Chicago, Illinois this 23rd day of November 1987.