

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employes  
(The Chesapeake and Ohio Railway Company  
(Northern Region)

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

(1) The Carrier, without just and sufficient cause and on the basis of unproven charges, imposed discipline upon Track Foreman G. Kuehnle for his

(a) alleged 'failure to perform your duties as Foreman by allowing employees under your jurisdiction an excessive lunch period on Friday, August 26, 1983, at Plymouth, Michigan' and for his

(b) alleged 'failure to perform your duties as Foreman by allowing employees under your jurisdiction an excessive lunch period on Tuesday, August 30, 1983, at Plymouth, Michigan' (System Files C-D-2007/MG-4413 and C-D-2008/MG-4412).

(2) Mr. G. Kuehnle shall have the reprimand removed from his record, his seniority as track foreman and assistant track foreman shall be restored and unimpaired, he shall have his record cleared of all charges leveled against him and he shall be allowed the difference between what he would have received at the track foreman's rate and what he was paid in a lower rated position until he is returned to work as a track foreman with seniority as such unimpaired."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Subsequent to an investigation, the Carrier determined that the Claimant, who is a Foreman, had improperly permitted employees under his jurisdiction an excessive lunch period on Friday, August 26, 1983. The Carrier, in reaching its findings, relied upon the testimony of the Claimant's Supervisor who stated:

- (a) That the Claimant had been previously warned not to exceed a thirty minute lunch period;
- (b) That he observed the Claimant's men return from lunch at 12:15 p.m., a period of thirty minutes beyond what was permitted.

We find credible and sufficient evidence which supports the charges of the Carrier. Moreover, the Claimant who held a responsible leadership position, had been cautioned as to his responsibilities in matters such as this. Under all the circumstances, we will not disturb the final assessment of discipline.

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 28th day of January 1988.