

The Third Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Grand Trunk Western Railroad Company (GTW)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the  
Brotherhood of Railroad Signalmen on the Grand Trunk  
Western Railroad Company (GTW):

On behalf of Signal Maintainer Mark T. Andre, headquartered at Flint, Michigan; assigned hours of service 7:30 AM to 4:00 PM; assigned meal period of 11:30 AM to 12:00 noon; assigned work days Monday through Friday; assigned rest days Saturday and Sunday:

Case No. 1

(a) Carrier violated the parties' schedule Agreement, particularly Discipline Rule 55, when it failed to meet the burden of proof that Claimant violated the provisions of Call Rule 18 of the parties' schedule Agreement, when he was absent from his residence on his rest days of Saturday, August 31, Sunday, September 1, and Labor Day holiday on Monday, September 2, 1985.

(b) As a consequence of such action, Carrier be required to make Claimant Mark T. Andre whole for all wages and benefits lost and clear his employment record of all reference to the instant charge and hearing held on October 3, 1985. General Chairman file: 85-40-GTW. Carrier file: 8390-1-54.

Case No. 2

(a) Carrier violated the parties' schedule Agreement, particularly Discipline Rule 55, when excessive discipline was rendered Claimants, in connection with their hearing on October 3, 1985, which resulted from Carrier charging them with failing to properly maintain their assigned territories.

(b) As a consequence of such action, Carrier be required to make Claimant Mark T. Andre whole for all wages and benefits lost, including all seniority rights unimpaired, resulting from his dismissal from service effective October 16, 1985.

(c) Also as a consequence of such action, Carrier be required to make Claimant Ronald J. Bruinekool whole for all wages and benefits lost resulting from the ten (10) day suspension which commenced Monday, October 21 and ended Friday, October 25, 1985, returning to service on Monday, October 28, 1985. General Chairman file: 85-41-GTW, 85-42-GTW. Carrier file: 8390-1-55."

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 employees 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 were given due notice of hearing thereon.

CASE No. 1

Rule 18 states in part:

"When such employees desire to leave their home station or section, they will notify the person designated by the supervisory officer that they will be absent, about when they will return and, when possible, where they may be found."

The Claimant had an obligation to notify the Carrier that he was going out-of-town for a long holiday weekend. Given that he was gone for three days, and even accepting his testimony that he tried to call the Carrier during a one-hour period on the first day, the Claimant has not met his obligation. Moreover, the Claimant has not satisfactorily explained why he did not attempt to call at another time or times during the three day period. The Claimant did not make a reasonable effort to comply with the provision of Rule 18.

Given the circumstances of the case and Claimant's past record, the assignment of fifteen (15) demerits was not excessive discipline.

CASE No. 2

The record of this case clearly indicates that Claimant failed to properly perform his duties of maintaining and testing appurtenances related to the crossing warning devices and failed to maintain crossing batteries. In his testimony, the Claimant acknowledged certain of the deficiencies in work performance and did not present convincing explanations for long periods of time during which work was not performed or work not recorded. In addition to not carrying out his inspection and testing duties in a proper manner, Claimant's failure to properly maintain crossing batteries in accordance with prescribed Rules and inattention to his duties caused premature failure of the batteries and created the potential for unsafe conditions in the event of a loss of power. The Claimant knew of his responsibilities and duties in these matters.

The discipline assigned to the Claimant must be fair, reasonable, justified by the facts of the case and equitable when comparisons are made among employees for similar offenses. Given the seriousness of the Claimant's misconduct and his past discipline record, dismissal is not excessive discipline. The Claimant was assessed discipline on seven (7) occasions in the last eight (8) years prior to his dismissal. Three (3) of the disciplines were for offenses similar to the instant matter, including a ten (10) day suspension earlier in the same year (1985). Although the Organization raised the point of inequities in discipline among employees for similar offenses, there is no information in the record on which to consider the Organization's contention.

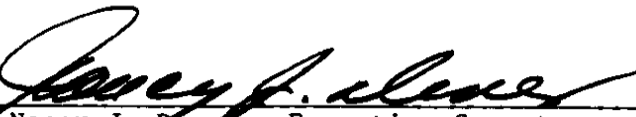
Concerning Paragraph (c) of Claim No. 2, the record reflects this dispute was resolved on the property.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.