

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27019
Docket No. MW-26659
88-3-85-3-405

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Kansas City Southern Railway Company

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

(1) The thirty (30) days of suspension imposed upon Automatic Tamper Operator C. M. Williamson for alleged responsibility in connection with the incident which occurred at approximately 10:30 A.M. on May 1, 1984 in the vicinity of Mile Post 180.8, when the machine he was operating, MW 850, Jackson 800 automatic surfacing machine, derailed, was unreasonable, unwarranted and on the basis of unproven charges (Carrier's File 013.31-297).

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

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.

Claimant is employed as a tamping machine operator. On May 1, 1984, Claimant was assigned to operate a Jackson 6000 Automatic Surfacing Machine (MW 850). While Claimant was operating the machine, it derailed. On May 15, 1984, Claimant was notified to attend an investigation of the charge:

"to ascertain the facts and determine your responsibility in connection with the incident that occurred at approximately 10:30 A.M. on May 1, 1984 in the vicinity of MP 180.8 when the machine you were operating, MW 850, Jackson 6000 Automatic surfacing machine, was derailed causing damage in the amount of \$15,000.00 to the machine and turning over rail and breaking a rail in the South Team Track switch at McElhaney, Missouri."

After a postponement, the hearing was held on June 11, 1984; as a result of the hearing, Claimant was assessed a thirty-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

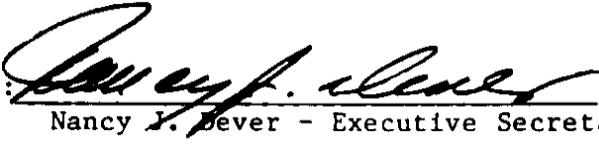
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offense with which he was charged.

Once this Board has determined that there is sufficient evidence to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find it to be unreasonable, arbitrary, or capricious. In this case, given the nature of the wrongdoing and the record of the Claimant, we find nothing unreasonable about the discipline assessed by the Carrier. Therefore, we must deny the claim.

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 25th day of April 1988.