

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 Employees
(
(National Railroad Passenger Corporation
((Amtrak - Northeast Corridor)

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

(1) The five (5) days of suspension imposed upon Track Foreman J. Titlow for alleged 'violation of Amtrak's General Rules of Conduct, Rule "K"' was without just and sufficient cause and on the basis of unproven charges (System File NEC-BMWE-SD-760D).

(2) The claimant's record shall be cleared of the charge leveled against her and she 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.

The Claimant was subject to an Investigative Hearing on the charge that she failed to follow the instructions of her Supervisor because she failed to work on installing certain rail ties as directed. Subsequent to the Hearing, the Carrier found the Claimant guilty as charged and assessed the discipline of a five (5) day suspension.

The evidence reveals that the Claimant did not perform the work that she had been directed to do. Accordingly, while we understand her reasons for not installing ties as directed, we do not find that her explanation offsets her failure to properly perform her duties.

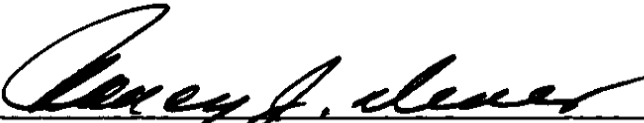
Under all circumstances, the penalty assessed cannot be said to be excessive.

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 12th day of August 1988.