

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
(
(Consolidated Rail Corporation

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

(1) The discipline imposed upon Track Foreman H. D. Miller, Jr. for alleged 'Failure to follow the instructions of Supervisor/Track W. B. Kerchof on 2/3/84 ... on the morning of 2/4/84' and 'Violation of Rule D', was arbitrary, capricious, unwarranted and on the basis of unproven charges (System Docket CR-736-D).

(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.

In this case, the Carrier essentially found that the Claimant had been ordered to identify and repair a wide gauge condition on two occasions, that he failed to perform this task, and that he had allowed employees under his supervision to take an extended lunch period on one occasion.

The Organization, with extensive reasoning, contends that the Carrier has failed to prove that the Claimant failed to carry out orders. It states that the Claimant exercised supervisory judgment and accomplished work not anticipated by his Supervisor. With respect to the charge that the lunch period was overextended, the Claimant contends that mechanical problems with a vehicle caused the delay.

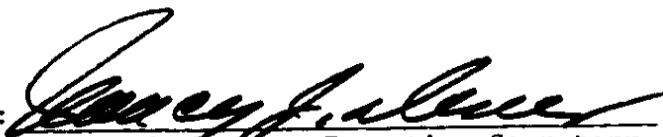
We have carefully reviewed the record and find that the Carrier was justified in its decision. Accordingly, we have no proper basis to modify the Carrier's disposition in this matter.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dexter - Executive Secretary

Dated at Chicago, Illinois, this 12th day of August 1988.