

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister 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 discipline imposed upon Trackman H. R. Furbay for alleged violation of Amtrak General Rule 'F' on October 18, 1984 was arbitrary, capricious and on the basis of unproven charges (System File NEC-BMWE-SD-1116D).

(2) The claimant's record shall be cleared of the charge 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 employee or employees involved in this dispute are respectively carrier and employees 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 charged and found guilty of violating AMTRAK General Rule 'F' in that he was observed riding an AMTRAK bus after his tour of duty. As a result, he was assessed discipline of time held out of service which was October 18, 1984, through October 29, 1984, or eleven (11) calendar days.

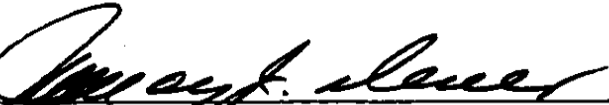
This Board's review of the evidence and especially the transcript establishes the written statement and testimony of Witness Jones was properly credited. Accordingly, we find the record supports the conclusion reached by the Carrier that the Claimant and Acting Assistant Foreman Carmichael were on the bus on October 18, 1984, and that their actions were not authorized. Given this determination, we cannot say the actions of the Carrier in assessing the discipline was arbitrary or capricious.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1988.