

The Third Division consisted of the regular members and in addition Referee Charlotte H. Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Northeast Illinois Regional Commuter Railroad Corporation  
(former Chicago, Rock Island & Pacific Railroad Company)

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

(1) The two (2) day suspension imposed upon Work Equipment Mechanic E. Denson for alleged violation of Rule 'N' was without just and sufficient cause and on the basis of unproven charges (System File NIRCRC-D-1245/08-13-66).

(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.

On October 9, 1986, Claimant was notified to attend a formal investigation into his responsibility, if any, in connection with his alleged failure to install a starter on a prime mover loader and/or check that it was operating properly. Claimant was found in violation of Rule N of the Rules and Regulations for Maintenance of Way and Structures, Form PE-01-RC, and was assessed a two-day suspension to be held in abeyance.

The Board has reviewed the record of the case, including the transcript of the hearing held on October 21, 1986, and finds the transcript devoid of sufficient probative evidence to support Carrier's charge of negligence on Claimant's part. The Claim is therefore sustained. Since the suspension was held in abeyance, however, no payment is warranted.

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Award No. 27745  
Docket No. MW-27876  
89-3-87-3-714

Mention of the two-day suspension held in abeyance shall be expunged from Claimant's record.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.