

The Third Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Maine Central Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10211) that:

1. Carrier violated the agreement between the parties when on January 30, 1986, it assessed an entry of twenty-five (25) marks and time lost of eight (8) days to be served as actual suspension against Operator G. I. Gasper, Bangor, Maine.

2. Carrier shall now be required to remove and expunge the entry of twenty-five (25) marks from the record of Operator G. I. Gasper and compensate him for time lost, eight (8) days, at the pro rata rate of pay, as a result of Carrier's arbitrary and capricious action.

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.

At the time of the occurrence giving rise to the dispute herein, Claimant was employed as a spare tower operator by Carrier, and on January 18, 1986, was working as tower operator at what is referred to as RD Tower.

Following a formal investigation conducted on January 22, 1986, involving the Claimant, an engineer and a trainman, Claimant was assessed discipline on January 30, 1986, of twenty-five marks and time lost of eight days to be served as actual suspension in connection with:

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Award No. 27784
Docket No. CL-28205
89-3-87-3-780

"Your responsibility in connection with the collision of Engine Consist 256-257-405-261 with Train MAPO on Track 9 in Bangor Yard at approximately 1935 hours 1/18/86 in violation of Rule 617 of the Rules for the Government of the Operating Department."

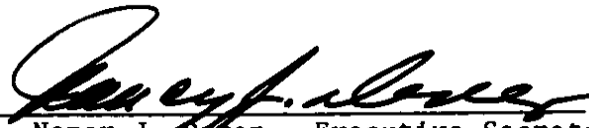
A copy of the transcript of the investigation conducted on January 22, 1986, has been made a part of the record. We have reviewed the transcript and find that none of Claimant's Agreement rights was violated, and that substantial evidence was adduced to support discipline against the Claimant. The discipline imposed was not arbitrary, capricious or in bad faith. The claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1989.