

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(CSX Transportation, Inc.
(former Chesapeake and Ohio Railway Company)

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

(1) The thirty (30) actual working days of suspension imposed upon Equipment Operator T. L. Pender for alleged insubordination on June 3, 1986 was harsh, unwarranted and on the basis of unproven charges (System File C-D-3435/MG-5762).

(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 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.

Claimant is employed as a Class B Roadway Equipment Operator by the Carrier. On June 4, 1986, Claimant was directed to attend a formal investigation in connection with the following:

"You are charged with responsibility, if any, for insubordination to your foreman in that you refused to carry out your assignment to pull spikes at approximately 8:10 a.m. on June 3, 1987, in the vicinity of Marion, Oh."

The hearing took place on June 16, 1986, and as a result, Claimant was suspended for thirty working days. The Organization thereafter filed a claim on Claimant's behalf, challenging his suspension.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of insubordination by refusing the assignment given to him by his foreman.

Once this Board has determined that there is sufficient evidence to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken by the Carrier to have been unreasonable, arbitrary, or capricious.

Insubordination has often been found to be grounds for dismissal. Consequently, this Board cannot find that the thirty-day suspension given to the Claimant was unreasonable. Therefore, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever, Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1989.