

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Chesapeake and Ohio Railway Company

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

(1) The dismissal of B&B Foreman M. B. Connor for alleged falsification of time sheets on July 21, 1985 was unreasonable and unwarranted (System File C-D-3035).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his 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.

In July 1985, Claimant was working as the Foreman of B&B Force No. 1504, a seven-member gang, working out of camp cars on the Virginia Division near Bridge 1605. On Sunday, July 21, 1985, the gang, under Claimant's supervision, worked on Bridge 1605. According to payroll records prepared and submitted by Claimant, he and all other members of the gang worked one hour overtime on that day. However, a supervisor encountered three (3) of the gang members away from the job site prior to the regular quitting time. When questioned, these employees indicated that Claimant had given them an early release at 3:30 P.M.

Upon receiving the payroll records prepared by Claimant showing that the gang had worked nine hours and ten minutes, Carrier cited him for investigation into charges that he falsified the time sheets. At the investigation, Carrier adduced substantial evidence that no gang member had worked for more than eight hours and fifteen minutes on July 21, 1985, and some had

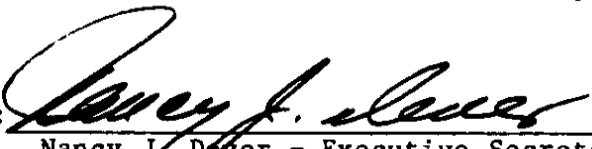
worked for less than eight hours. Claimant had submitted for each gang member a time slip for nine hours and fifteen minutes work that day. According to Claimant's testimony, he put in for the extra time because he had assigned the men to go back to the camp cars and clean them at the end of the day and he believed that they had done so. However, all three members of the gang who testified at the hearing stated that Claimant had issued no such instructions to work overtime but rather had released them well before the regular quitting time. Carrier obviously resolved this credibility conflict against Claimant and we find no valid basis in the record for disturbing that judgment. At the time of his offense, Claimant was on probation for having falsified time sheets only three months earlier in April 1985. In all of the circumstances of record, Carrier had just cause to terminate Claimant and his claim must 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 31st day of July 1989.