

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

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

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

(1) The discipline [ten (10) days actual suspension and demotion as Track Foreman] imposed upon Track Foreman T. Strickland for alleged violation of Engineering Department Maintenance Rule No. 11 was unwarranted and excessive [System File C-D-4004/12(87-1033)].

(2) The Claimant shall be reinstated as a Track Foreman with seniority unimpaired 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 Friday, June 26, 1987, Claimant was assigned as a Track Foreman on a crew consisting of himself, five trackmen and an operator. Claimant had his crew take a late lunch and then released them to go home two and one-half hours before their normal quitting time. Although Claimant had not received permission to release the crew from his Supervisor, he attempted to call him that evening to ensure that the payroll records reflected the reduced hours worked.

Claimant was consequently charged with violating Engineering Department Maintenance Rule No. 11 by releasing his force from duty prior to quitting time without authorization. At his Hearing, Claimant acknowledged that he had not received explicit authority, but it had previously been the practice for Foremen to do so on Fridays when the scheduled work had been completed. Following a meeting with the Division Engineer, however, this practice had been discontinued.

The Carrier disciplined Claimant by demoting him from his Track Foreman position. In addition, he was required to serve a ten day suspension which had been assessed in connection with a unrelated previous incident.

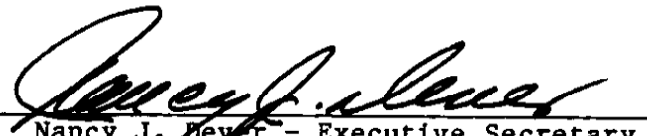
Based upon the record, this Board finds that there was substantial evidence that Claimant released his crew without authority. In light of all the circumstances, however, we find that the discipline imposed was excessive. Accordingly, Claimant's rights as a Track Foreman shall be restored.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois this 10th day of August 1989.