

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Southern Pacific Transportation Company (Western Lines))

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (SPTC (WL)):

On behalf of Signalman B. G. Wimberly, Jr., for reinstatement to service with pay for all time lost account of Carrier violated the current Signalmen's Agreement, as amended, particularly, Rule 59(c), when it failed to render its decision within the time limits." Carrier file SIG 0-86-W.

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 was employed as a signalman. On October 9, 1986, Claimant was notified to attend a formal Investigation in connection with the charge:

"to develop the facts and place responsibility, if any, in connection with your alleged sleeping while on duty which occurred on October 9, 1986, in the Brooklyn Signal Shop, Portland, Oregon."

The Hearing took place on October 23, 1986, and, as a result, Claimant was dismissed from Carrier's service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit.

With respect to the substantive question, 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 finding that the Claimant was guilty of sleeping on the job.


Once this Board has determined that there is sufficient evidence in the record 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 be unreasonable, arbitrary, or capricious.

There is no question that sleeping on the job has been found to be a dismissible offense in numerous Board Awards. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Consequently, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. O'Leary - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.