

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 28318
Docket No. SG-28438
90-3-88-3-232

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Railroad Company (BN):

Claim on behalf of R. C. Nostdahl for payment of ten days' pay at his pro-rata rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 54, when it failed to find him guilty as charged. General Chairman's file D-87-458; Carrier file DSI 870720."

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.

Subsequent to an Investigation held on March 26, 1987, the Carrier concluded that the Claimant had taken road material from a county road and left it in an unsafe condition.

As a threshold matter, the Organization, in the record and before this Board, has objected with considerable skill to the proceedings that led to the Claimant's suspension on procedural grounds. We have carefully reviewed these objections and, while we find them not unreasonable, we conclude that this Claim should not be set aside on defective procedural grounds.

With respect to the merits, the Claimant's testimony in the Investigation transcript, established his guilt to the charge. With respect to the discipline assessed, given the proven charge and in consideration of the Claimant's past disciplinary record, it cannot be said that the Carrier's final disposition of the matter was an abuse of its discretion.

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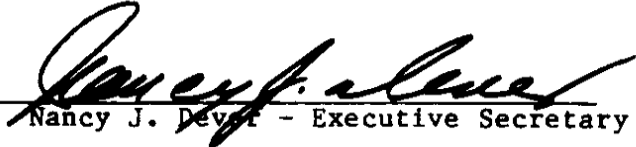
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1990.