

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc.
((former Chesapeake & Ohio Railway Company)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chesapeake & Ohio Railway Company (C&O):

(a) Carrier violated the parties' Schedule Agreement, as amended, particularly Discipline Rule 55, when it failed to meet the required burden of proof showing Claimant was guilty of the offense as charged and failure to give Claimant the required fair and impartial hearing including a complete transcript of testimony taken at the hearing held August 5, 1988.

(b) As a consequence of such action, Carrier be required to make Charles I. Wheeler, ID No. 090692, whole for wages and benefits lost between Monday, August 29, 1988 and Friday, October 7, 1988 or total wages of \$3391.20. Carrier also clear Claimant's service record of all reference to such charges, including all seniority, vacation and holiday rights unimpaired." Carrier file 15(88-55) G.C. File 88-27-CD.

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.

Claimant, a Signal Maintainer, was assessed a thirty (30) day suspension for insubordination when he refused to respond to a call for overtime. Claimant acknowledged at his Investigation that he had refused to report when directed by his supervisor and that he hung up on him. Under the circumstances we must agree that the charge against Claimant was proven. As this was Claimant's third offense for insubordination in connection with refusing overtime, we find that the discipline assessed was appropriate.

There were no procedural errors which would cause us to reverse the Carrier's action. By mailing Claimant a notice of charge within ten (10) days of the offense, the Carrier complied with the applicable time limit. This Board has consistently held that an employee is "notified" when the Carrier places the notice in the U. S. Mail. See Third Division Awards 13685 and 26401.

The Agreement, therefore, was not violated.

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 19th day of July 1990.