

11/10/90
Adopt Session
12/17/90

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Southern Pacific Transportation Company (Eastern Lines)

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

(1) The prehearing suspension of I&R Foreman T. E. Pledger, beginning on June 18, 1987, was improper and in violation of the Agreement (System File MW-87-117/465-1-A).

(2) As a consequence of the violation referred to within Part (1) hereof, the Claimant will be paid for one hundred seventy-six (176) hours at his straight time rate of pay."

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.

At issue before this Board is the disqualification of Claimant as an I&R Foreman as well as a thirty-day suspension issued to him as the result of his alleged failure to detect a rail defect in June 1987.

We note that this same issue, arising out of the same set of events, was adjudicated before Public Law Board 4373. A decision was rendered in Award No. 16 (Case No. 11) on February 26, 1990. As a consequence, the Claim before us must be dismissed as moot.

A W A R D

Claim dismissed.

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Award No. 28618
Docket No. MW-28495
90-3-88-3-305

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of December 1990.