

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10381) that:

1. The Carrier violated the provision of Rule 24(a) when it held Mr. B. F. Yore from service pending a disciplinary investigation.

2. The Carrier further acted in an arbitrary, capricious and unjust manner and in violation of Rule 24 of the Agreement, when by notice of December 8, 1986, it assessed as discipline a thirty (30) day suspension against Chicago Train Director, Mr. B. F. Yore.

3. The Carrier shall now be immediately required to compensate Mr. Yore an amount equal to what he could have earned, including but not limited to daily wages, overtime and holiday pay had he not been suspended as mentioned above.

4. The Carrier shall now be immediately required to clear Mr. Yore's record of the charges made against him in this matter and restore all his rights, privileges and seniority unimpaired."

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.

Following a Hearing, Claimant was assessed a thirty (30) day suspension for leaving his assignment as Train Director before the arrival of his relief. At the end of his shift, Claimant stopped working, thereby halting train operations through the territory under his direction. He told the Yardmaster on duty that he could not perform any more work because of the Hours of Service Law, even though he apparently knew he could work for one additional hour under the Law.

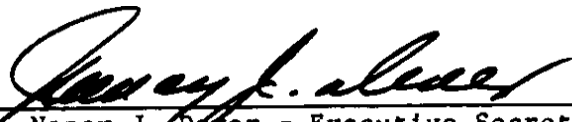
The situation between Claimant and his supervisors quickly got out of hand, probably because of the sensed urgency to move trains. While the record supports the assessment of some discipline for Claimant's failure to continue working, we find there were mitigating circumstances which justify a lesser penalty. These include the overreaction of the supervisors as well as Claimant's showing of remorse immediately after this incident. Accordingly, we direct that the discipline be reduced to a ten (10) day suspension and Claimant be compensated for time lost beyond that point.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 28th day of March 1991.