

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(CSX Transportation, Inc.  
(Former SCL)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (SSR):

On behalf of Signalman H. L. Williams, for compensation for all time and benefits lost, account of Carrier violated the Signalmen's Agreement, as amended, particularly Rule 47, when it did not give him a fair and impartial hearing and assessed him with excessive and harsh discipline." Carrier file 15-47 (88-16)."

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 had been employed by Carrier in 1981 and in August 1987, exercised his seniority to an Independent Signal Maintainer's position, at Lakeland, Florida. In that capacity he had responsibility for maintenance in an assigned territory.

In January 1988, Claimant's supervisor together with a Signal Engineer inspected Claimant's assigned territory and found crossing lights which did not work and grounds on some of the batteries; also batteries which Claimant had supposedly checked on December 16, 1987, were without water and extremely dirty. As a result, a notice of Investigation was issued charging Claimant with failure to maintain a specified portion of his territory. Following an Investigation held on January 25, 1988, Claimant was found guilty and assessed a 60-day suspension to be served from February 22 through April 21, 1988.

The Organization argues that the charge was not precise, that there was insufficient evidence to establish Claimant's guilt and, furthermore, the penalty was excessive. In addition the Organization notes that Claimant had been on the assignment for a limited period of time prior to the inspection and had not received adequate instruction from his supervisor.


Carrier maintains that there were no procedural deficiencies in the disciplinary process and, furthermore, the discipline decision was amply justified. Claimant's failure to properly perform his maintenance functions could have had serious consequences. Carrier argues that Claimant was proven guilty of serious neglect of his duties and the disciplinary decision was correct.

The Board cannot find any flaw in the charges lodged against Claimant in this matter. They were clearly sufficient to permit Claimant to prepare a defense and were consistent with similar charges throughout the industry in that they specified the area of deficiency by using milepost delineations. Further, it is apparent that substantial evidence in support of Carrier's decision was introduced at the Investigation. The only question remaining is the quantum of the penalty accorded in this matter. Two factors have been taken into account in our evaluation of this aspect of the dispute: (1) Claimant had been on this position for only a few months and (2) he should have received more direction and supervision from his immediate supervisor. Based on these considerations, and taking his prior record into consideration, we conclude that the penalty in this instance was excessive. The penalty, therefore, will be reduced to a forty-five day suspension. However, inasmuch as Claimant testified that he was unable to work on and after February 18, 1988, as the result of an alleged on-duty injury, and he had not returned to work at least as of May 4, 1988, no compensation is awarded.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1991.