

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 28997
Docket No. SG-29065
91-3-89-3-502

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Baltimore and Ohio Railroad Company)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSXT (Baltimore and Ohio Chicago Terminal Railway Company (BOCT):

On behalf of M. G. Donahue, for payment of 30 days pay and lifting of restriction from his record, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Discipline Rule when it assessed him with 30 days suspension and restricted his work and took away his rights to be a Signal Maintainer." Carrier file 15-41 (88-69).

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 the time of the incident that gave rise to this dispute, Claimant was employed by Carrier as a Signal Maintainer working in the Chicago, Illinois, area. On June 27, 1988, Claimant was observed asleep on duty. He was charged on July 8, 1988, as follows:

"You are charged with your responsibility, if any, in connection with your alleged violation of Company rules and Corporate Policy in that you were asleep on Company Property, on duty, while under pay. This allegedly constitutes your failure to obey the following Company directives:

1. Operating Rules (CSX09)
Rule(s): B and D
2. Engineering Department Maintenance Rule(s) N-66: 12
3. Safety Rule No. 3, CSX-25:
Employees must know and obey
rules and Special Instructions
that relate to their duties

The alleged violation of the above stated Company Rules was observed by Corporate Officers at 1330 Hrs. Local time, on Monday, June 27, 1988 on the Carrier's Chicago Division, Barr Subdivision, MP 4.8, Columbia Avenue Signal Department Headquarters, East Chicago, Indiana."

A Hearing into the matter was held on July 15, 1988. As a result of that Hearing, Claimant was found guilty as charged and assessed discipline as indicated below:

"It has been determined that you were guilty as charged and the discipline administered for stated charges are thirty (30) days of actual suspension from service between Monday, July 25, 1988, and Friday, September 2, 1988, inclusive. You are also assessed discipline in that you must forfeit your signal maintainer's seniority, and upon return from actual suspension, you are restricted to work under the direct supervision of a foreman, lead signal maintainer.

Please be advised that your record will be noted accordingly."

This Board has reviewed the transcript of the Hearing and the additional material contained in the record. As a result of that review, we conclude that Claimant was guilty of sleeping on the job and a thirty-day suspension is appropriate. We do not, however, conclude that sleeping on the job in this instance should result in Claimant losing his seniority rights as a Signal Maintainer for any period of time. Claimant was found guilty of sleeping on the job. He was not charged with or found guilty of not being fit or qualified to perform his job as a Signal Maintainer.

This Board concludes that taking Claimant's seniority as a Signal Maintainer was not justified as a penalty and that Claimant's record should be changed to so indicate. As to Claimant being forced to work only under supervision of a Foreman or a Lead Maintainer, the Board makes no comment. Carrier can designate how it supervises its employees.

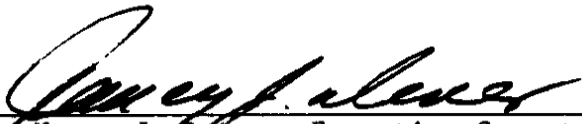
Based on a review of the total record in this instance, this Board concludes that all procedural requirements were met by both parties and that Claimant was guilty of sleeping on duty. We also conclude that Carrier acted properly in assessing a thirty-day suspension, but that forfeiture of Signal Maintainer seniority was not warranted. The Board therefore directs that Claimant's Signal Maintainer seniority be restored to him with no hiatus and he be made whole for all losses he might have suffered during the period his seniority was taken.

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 24th day of September 1991.