

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Elgin, Joliet and Eastern Railway Company

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

(1) The sixty (60) demerits imposed upon Track Foreman L. Reese for alleged failure to comply with instructions of Division Engineer S. C. Chambers on October 17, 1988 was excessive, based on unproven charges and in violation of the Agreement (System File DJ-1-89/UM-10-89).

(2) The Claimant's record shall be cleared of the charge leveled against him and the sixty (60) demerits shall be rescinded."

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 was assessed 60 demerits following an Investigation on a charge that he failed to comply with instructions issued to him on October 17, 1988. Review of the Investigation Transcript develops that adequate evidence was introduced to demonstrate that Claimant was guilty of the charges placed against him. Moreover, this review, as well as the entire record before this Board, does not develop that due process procedural rights, as provided by the Agreement, were breached so as to flaw the Investigation and the discipline assessed. Accordingly, we are without a basis for any modification of the discipline assessed.

The Claim will be denied.

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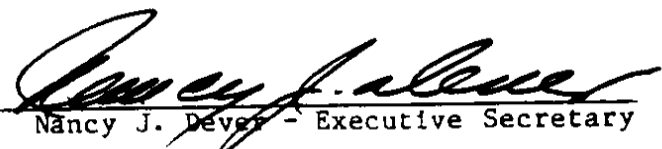
Award No. 29117
Docket No. MW-29174
92-3-90-3-32

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 28th day of February 1992.