

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

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employees  
(CSX Transportation, Inc.  
(Formerly The Chesapeake and Ohio Railway Company)

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

(1) The disciplinary disqualification of Foreman A. L. Kendrick, Jr. for '... failure to place a temporary speed restriction on track that was weakened by removal of a portion of the track spikes between July 11, 1989 and July 13, 1989 for the purpose of rail laying at or near MP 38.2 Big Sandy S.D. on No. 1 track.' was arbitrary, capricious, without just and sufficient cause and exceedingly harsh (System File C-M-4674/12(89-751) COS).

(2) The Claimant shall have his foreman's seniority reinstated with all benefits unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

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 employees 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.

We have reviewed the entire file and have considered the contentions as advanced by the parties. It is our conclusion that, on the basis of this record, full final and complete settlement of this dispute will be achieved by the reinstatement of Claimant to the Foreman's class with seniority unimpaired but without compensation for the period of time during which he was out of the Foreman's class. Claimant should be restored to his former Foreman's position if it is now available and he meets the qualifications required by current regulations.

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Award No. 29188  
Docket No. MW-29473  
92-3-90-3-405

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 3rd day of April 1992.