

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29767
Docket No. SG-29539
93-3-90-3-475

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(National Railroad Passenger Corporation
((AMTRAK)

STATEMENT OF CLAIM: "Claim on behalf the General Committee of the
Brotherhood of Railroad Signalmen on the
National Rail Passenger Corporation (AMTRAK):

Claim on behalf of C. Carter, for reinstatement of his Foreman and Assistant Foreman's seniority rights, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Discipline Rule when it allegedly found him guilty of defacing company equipment on April 8, 1989." Carrier file NEC-BRS-SD-377D. BRS file Case No. 7931-AMTRAK.

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 employe 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.

Pursuant to proper written notice, the Carrier convened an Investigation on May 23, 1989, to determine if Claimant, a Signal Foreman, had violated Carrier Rule K which forbids employees from destroying, defacing, vandalizing or wasting Carrier property.

At the Investigation, two Supervisors testified that, when they entered the CIH-2 bungalow at Cove Interlocking at 3:00 a.m. on April 8, 1989, they observed numerous mouse faces drawn on the signal equipment as well as on the bungalow walls and ceiling. One

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Supervisor took photographs of the drawings which were incorporated into the Hearing record. Claimant admitted that he drew the mouse faces because he was bored and suffering from hyperactivity and anxiety over a personal problem.

Following the Investigation, the Carrier disqualified Claimant from holding Foreman and Assistant Foreman positions for one year. The record reflects that at the end of the one year disqualification period, Claimant bid on and was awarded a Foreman position.

Claimant in this case is not seeking any back wages. Claimant merely petitions for removal of his disqualification from the Foreman and Assistant Foreman classes. Inasmuch as the one year disqualification period has long since expired, this controversy is moot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 20th day of September 1993.