

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30600  
Docket No. SG-31102  
94-3-93-3-94

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Southern Pacific Transportation Company

STATEMENT OF CLAIM:

"Claim on behalf of J.M. Mooty to be made whole for all time and benefits lost as a result of suspension from service from February 22, 1992 through March 22, 1992 and to have the discipline removed from his record, account Carrier violated the current Signalmen's Agreement, Rule 53, when it assessed arbitrary and capricious discipline against the Claimant in connection with an investigation conducted on February 13, 1992."

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 employee 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 notified on January 30, 1992 to attend an Investigation on February 13, 1992, to develop the facts and place responsibility for his alleged failure to repair a crossing warning at Idalia, Missouri, on January 16, 1992. As a result of the Investigation Claimant was suspended for a period of 30 days.

The record is clear that the Claimant was aware of a broken crossing signal around 4:00 p.m. on January 16, 1992. He did nothing to repair the crossing signal until he was called at 1:00 a.m. on January 17, 1992. His failure to act on the broken signal when he first became aware of it is a serious violation of the Rules. Rule 607 reads:

"RULE 607. CONDUCT: Employees must not be:

1. Careless of the safety of themselves or others;
2. Negligent."

This Board considers safety as the utmost responsibility of all railroad employees even if there are no adverse occurrences. In this case the claimant chose to ignore the risk to the public by not promptly handling the broken crossing signal. The 30 day suspension was warranted and was not arbitrary or capricious.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 2nd day of December 1994.