

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31321  
Docket No. MW-31915  
96-3-94-3-249

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  
(  
(CSX Transportation, Inc. (former  
( Seaboard Coast Line Railroad Company)

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

- (1) The discipline [thirty (30) day overhead suspension] imposed upon Trackman B. J. Hinson for alleged violation of Rule 11, in connection with a personal injury occurring on February 23, 1993, was arbitrary, capricious and on the basis of unproven charges. [System File BJH-94-38/12 (93-349) SSY].
- (2) As a consequence of the violation referred to in Part (1) above, Trackman B. J. Hinson's record shall be 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 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.

While moving a 228 pound rail grinder on February 23, 1993, Claimant was injured. He was cited to attend an Investigation on the incident. Following the Investigation, he was assessed a 30 day overhead disciplinary suspension for engaging in an unsafe work practice. The Board reviewed the transcript of the Investigation and the Submissions of the parties and concludes from this review that adequate evidence was developed to support the charges and establish that Claimant did indeed engage in an unsafe work practice. Further, there exists no procedural or Agreement due process defects so as to flaw the results of the Investigation.

Accordingly, the discipline assessed will not be disturbed.

AWARD

Claim denied.

ORDER

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

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of January 1996.