

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32202  
Docket No. TD-32666  
97-3-95-3-603**

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

(American Train Dispatchers Department/International  
( Brotherhood of Locomotive Engineers

**PARTIES TO DISPUTE:** (

(Chicago and North Western Transportation Company

**STATEMENT OF CLAIM:**

"This appeal is based on the fact that the Carrier failed to provide Appellant Johnson with a fair and impartial investigation. The decision of Mr. Murphy to assess discipline breaches Appellant's basic right to an independent review of the record to determine her culpability based solely on evidence adduced at the investigation. In this case, Mr. Murphy investigated the alleged incident, decided that an investigation was warranted, determined Appellant's guilt, and assessed discipline. Such a process required Mr. Murphy to review his own original decisions in this matter, thus violating Appellant's right to an independent review of her case. In addition to this, Appellant's case was already prejudged by Mr. Murphy. On three separate occasions Appellant had conversations with Mr. Murphy on the pending investigation. In these conversations, Appellant Johnson was informed by Mr. Murphy that she was going to receive a five day suspension. Clearly, this is a total violation of Appellant's right to a fair and impartial hearing.

I respectfully request that you consider this appeal and find in favor of the Appellant. We specifically request that you allow compensation for all lost time, lost benefits, and expenses incurred in attending the investigation and removal of any reference of this discipline from Appellant's personal record."

**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 were given due notice of hearing thereon.

On November 16, 1994, Claimant Johnson failed to complete a number of track forms allowing trains to proceed without correct and complete instructions. At her Investigation Claimant acknowledged that she failed to complete a number of track forms. She was assessed a five day suspension.

The Organization has appealed this assessment of discipline to this Board on a variety of procedural grounds. The Board has considered each and determines that they do not possess sufficient merit to warrant that the discipline assessed in this matter be modified. Accordingly the claim will be denied.

**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 17th day of September 1997.