

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32347
Docket No. SG-32858
97-3-96-3-202**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of Railroad Signalmen on the CSX Transportation Company (B&O):

Claim on behalf of F. Tabron for payment of all time lost as a result of his suspension from service for five days, account Carrier violated the current Signalmen's Agreement, particularly Rule 50, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline without meeting the burden of proving its charges in connection with an investigation conducted on May, 19, 1994. Carrier's File No. 15(95-157). BRS File Case No. 9809-B&O."

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 April 26, 1994 while on his way to report for duty, Claimant's car broke down. He attempted to contact his Foreman's pager, but there was no reply to the page. After two hours with no reply to the page, Claimant tried again and attempted to contact another Foreman as well. He did not receive a reply to his page until 10:00 P.M. that night. Because his car was not repaired on time, he did not report for duty on the day in question. The Carrier denied receiving the page, but conceded that the geographic area in question was such that pagers do not always work, and further conceded that on the day in question one page was received by the Foreman which was unrecognizable. As a result, the Carrier assessed the Claimant a five day suspension.

The record reflects that the Claimant was also assessed a ten day suspension for being absent without permission on May 12, 1994, which was upheld when his claim was denied in Third Division Award 32122. The record further reflects that the Claimant was removed from service on June 25, 1994 for submitting a false claim for reimbursement of expenses for obtaining a CDL license. The claim contesting the discharge was denied in Third Division Award 32083.

In light of the fact that the Claimant has been removed from service and that his claim contesting that removal was denied, the matter herein is deemed moot and the claim is 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 13th day of November 1997.