

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32483
Docket No. SG-32868
98-3-96-3-82**

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: (
(Union Pacific Railroad Company (former Chicago
(and North Western Transportation Company)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago & North Western Transportation Co. (CNW):

Claim on behalf of T.S. Omaye for compensation for all time lost as a result of his suspension from service for ten days beginning November 23, 1994, and for his record to be cleared of all charges in connection with this discipline, account Carrier violated the current Signalmen’s Agreement, particularly Rule 51, when it did not provide the Claimant with a fair and impartial investigation and assessed harsh and excessive discipline against him in this matter. Carrier’s File No. 79-95-8. General Chairman’s File No. S-AV-211. BRS File Case No. 9658-CNW.”

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.

The record reflects that at all material times herein the Communications and Signal Supervisor required each signal crew to complete a Signal Maintainers Daily Assignment Report and to fax it to him so that he knows the location and activity of each crew under his supervision. The Claimant filed those Reports on October 19, 20, 21 and 24, 1994. However, he failed to include on the Reports the exact location, exact signal number and the track circuit number. His omissions were pointed out to him and the Claimant acknowledged the errors. Claimant was subsequently charged with failure to comply with instructions on the first three dates listed above and was assessed a ten day suspension.

The Organization contends that the discipline in this matter should be overturned because the instructions received by the Claimant regarding the Reports were unclear, that his errors were inadvertent, and that the Carrier has been guilty of disparate treatment. In the alternative, the Organization urges that a ten day suspension is disproportionate to the misconduct and cannot be affirmed.

We do not agree with the Organization's assertions. First, the record shows that the instructions to the Claimant were repeated, both verbally and in writing, and were specific. Although the Organization is correct that the errors appear to be inadvertent, in light of the fact that they were repeated, compressed into a short time period, and continued despite corrective instruction, lead us to believe that remedial disciplinary action was in order. With regard to the claim of disparate treatment, it is clear that other employees made similar if not identical errors on their Reports. However, it is equally clear in the record that those employees, unlike the Claimant, corrected their errors. Thus, the Claimant is not similarly situated and need not be treated in the same fashion. Finally, we note that the Claimant herein had been the subject of progressive discipline and that a ten day suspension was the next step in that progression. Thus, it is not for us to say that the ten day suspension under these circumstances was inappropriate.

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 23rd day of February 1998.