

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 37064  
Docket No. SG-36855  
04-3-01-3-410

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(Union Pacific Railroad Company)

**STATEMENT OF CLAIM:**

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Grievance on behalf of J. K. Chandler for removal of a Level 2 discipline from his personal record. Account Carrier violated the current Signalmen’s Agreement, particularly Rule 68, when it issued discipline to the Claimant without the benefit of a fair and impartial investigation and without meeting the burden of proving the charges against him in connection with an investigation held on September 19, 2000. Carrier’s File No. 1241766. General Chairman’s File No. Ndisp-116. BRS File Case No. 11701-UP.”

**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 Claimant was assigned to the position of CDCET in the Harriman Dispatch Center at Omaha, Nebraska. Neither party to the dispute identified what CDCET stands for or represents. From a review of the Hearing transcript, it is apparent that the Claimant was working in a limited space environment with several other like titled employees.

The genesis of this case is found in an incident that occurred at approximately 12 Midnight on August 22 and 23, 2000, in which the Claimant was allegedly discourteous, loud and confrontational in his mannerisms and language with fellow employees while on duty and under pay in the Harriman Dispatch Center.

The Claimant was notified on September 1, to appear for a Hearing on September 19, 2000, in connection with his behavior as described above. The Hearing was held as scheduled at which time the Claimant was present, represented and stated his readiness to proceed. The Claimant testified on his own behalf and was accorded the opportunity to cross-examine other witnesses who testified.

Following completion of the Hearing, the Claimant was notified by letter dated October 6, 2000, that he had been found guilty as charged and was assessed a Level 2 Discipline which required that he "attend one (1) day of alternative assignment with pay to develop a Corrective Action Plan." In other words, the Claimant was paid for the one day as if he had been working while coming up with a plan of how he needed to change his behavior.

The assessed discipline was appealed by the Organization on the Claimant's behalf through the normal on-property grievance procedures and is now before the Board for final adjudication.

From the Board's review of the extensive case file, it is apparent that the Claimant was accorded all due process rights to which he was entitled under the Agreement. Also, it is apparent that there was more than substantial credible evidence developed during the Hearing, including candid admissions from the Claimant himself, to support the conclusion that he was, in fact, guilty as charged.

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The assessed discipline was commensurate with the proven guilt. It was neither excessive nor arbitrary. It will not be changed by the Board. 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 22nd day of June 2004.