

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 37362  
Docket No. MW-37750  
05-3-03-3-115

The Third Division consisted of the regular members and in addition Referee Steven M. Bierig when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees  
(CSX Transportation, Inc.)

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

- (1) The ten (10) day suspension imposed upon Track Inspector R. Y. Harbison for his alleged violation of CSX MWI Policy 119.65, 119.651, Federal Railroad Administration Regulations 213.109, Norac Operating Rules and General Rules B, N, and S was without just and sufficient cause, based on unproven charges and in violation of the Agreement [Carrier's File 12 (02-0705) CSX].
- (2) As a consequence of the violation referred to in Part (1) above, the discipline assessed Track Inspector R. Y. Harbison shall “. . . be expunged from his person (sic) file, he be cleared of any wrongdoing, and be made whole for all his losses. . . .”

**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.

Form 1

Page 2

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This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As a preliminary matter, the Board notes that this matter, which was progressed to the Board by the Organization, is identical to Docket MW-37655, which was previously advanced to the Board by the Carrier. It resulted in Third Division Award 37359.

In light of the Board's conclusions in that Award, the instant claim is dismissed.

**AWARD**

Claim dismissed.

**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 24th day of February 2005.