

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37442
Docket No. SG-36712
05-3-01-3-268

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Springfield Terminal Railway Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Chairman of the Brotherhood of Railroad Signalmen on the Springfield Terminal Railway Company (STRC):

Claim on behalf of W. J. Santini for payment of all lost time and benefits and for his personal record to be cleared of any reference to this matter. Account Carrier violated the current Signalmen's Agreement, particularly Article 19, when on June 30, 2000 Carrier suspended the Claimant from service from September 18 through 22, 2000 in connection with an investigation held on June 19, 2000. Carrier failed to meet its burden of proof. Carrier File No. S-00-02. BRS File Case No. 11667-STRC.”

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 at all material times herein a Signal Maintainer. On May 16, 2000, he struck a magnetic antenna mounted on the rear of a truck when he entered the back of the truck on his hands and knees. In doing so he was struck in the eye. Seven days later, he was charged in an Investigation for "responsibility. . . for making incomplete, misleading and/or false statements concerning the . . . injury. . . ." Following completion of the Investigation, he was deemed in violation of Carrier Rules that require the exercise of care to avoid injury, alertness, attention, and observation and the use of common sense to avoid injury. He was given a four day suspension.

In our view, the suspension should be set aside. It is axiomatic that discipline must be proportionate to the offense so as to avoid the conclusion that it is punitive. In light of the Claimant's unblemished record, a suspension is excessive and punitive. The Claimant cannot, however, escape discipline for his apparent failure to exercise care. We find that a written reprimand is adequate to serve the remedial purpose of discipline.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 22nd day of March, 2005.