

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40952
Docket No. SG-40154
11-3-NRAB-00003-070384**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Kansas City Southern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern:

Claim on behalf of B. J. Newton, for reinstatement to his former position with compensation for all time lost, including skill pay, with seniority and benefits unimpaired and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 47, when it issued the harsh and excessive discipline of dismissal against the Claimant without providing a fair and impartial investigation and without meeting its burden of proving the charges in connection with an investigation held on February 22, 2006. Carrier’s File No. K06056085. General Chairman’s File No. 06-013-KCS-185. BRS File Case No. 13749-KCS.”

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 disciplined for his failure to provide the Carrier with records to support his testing of signal equipment. At the time of the charge, the Claimant had less than six years of service with the Carrier. His work history included a prior lengthy disciplinary suspension.

The record contains substantial evidence to support the Carrier's determination that the Claimant had repeatedly failed to provide the required documents on a timely basis. Moreover, the record does not provide any proper basis for disturbing the Carrier's disciplinary decision.

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 24th day of March 2011.