

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42895
Docket No. MS-43307
18-3-NRAB-00003-150467**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(M. K. Williams

PARTIES TO DISPUTE: (

(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

“This is to serve Notice, as required by the Rules of the NRAB of my intention to file an ex parte submission covering an unadjusted dispute between me, and the Norfolk Southern RR.

According to Letter from Carrier dated June 29, 2014, I was notified to report to the Landers Administration Building 12:00p CST on Tuesday July 8th, 2014 for a formal investigation to determine my responsibility, if any, in connection with your violation of Norfolk Southern Safety and General Conduct rule G# and GR-1(a) in that you refused to sign the May safety contact sheet (GCR-1). I gave you specific and direct instructions to sign this form on 06/13/2014 and your refusal to do so is in direct violation of the above stated Norfolk and Southern Safety and General Conduct rules.

Page 13 of transcript

Division Manager Steven Lanning is questioned by TCU Chairperson Stephanie Reavis ask him if there is anything in writing stating that an employee has to sign?

Steven Lanning: Not to my knowledge.

In view of violation of being assessed 10 day actual suspension and 20 day deferred suspension. Unjust and discriminatory action I'm

requesting that my record be cleared and compensation for time lost.
Questioning Time according to charge Rule 27-TCU.

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 Carrier contends that the Petitioner is guilty of violating GR-1(a) and GR-3 by failing to follow instructions when she was approached by supervision and asked to sign a sheet acknowledging that she had read a rule or regulation and understood that rule. The Carrier contends that the Petitioner admitted that she failed to follow the instructions of the Carrier officer. The Carrier also contends that the ten-day actual suspension and twenty-day deferred suspension was neither arbitrary nor capricious.

The Petitioner contends that she had read the rule and understood it but that she did not feel comfortable signing. The Petitioner requests that the claim be sustained and that she be made whole and that the suspensions be removed from her record.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Petitioner was guilty of failing to follow the Carrier's instructions when she refused

to sign the form indicating that she had reviewed the instructions and understood them. The record reveals that the Petitioner admitted that she did not follow the instructions of the supervisor and, therefore, this Board finds that she was properly found guilty of violating Carrier rules GR-1(a) and GR-3.

Once the Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Petitioner in this case admitted that she failed to follow the rules when she refused to sign the document requested by her supervisor. The general rule is that an employee is to "act now and grieve later." This Petitioner decided not to follow the rules and refused the direct order from her supervisor. That is insubordination. That is a serious offense.

The Petitioner in this case was issued a ten-day actual suspension, as well as a twenty-day deferred suspension. Given the seriousness of the offense here, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued that discipline to the Petitioner. Therefore, the claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Petitioner(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 10th day of January 2018.