

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42928  
Docket No. SG-43284  
18-3-NRAB-00003-150209**

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

**PARTIES TO DISPUTE:** ( **(Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc.**

**STATEMENT OF CLAIM:**

“Claim on behalf of the General Committee of the Brotherhood that:

Claim on behalf of M.D. Winstead, for reinstatement to his former position with all seniority and benefits unimpaired, compensation for all time and benefits lost, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 55, when it issued the Claimant the harsh and excessive discipline of a thirty calendar day suspension without providing him a fair and impartial investigation and without meeting its burden of proving the charges in connection with an investigation held on January 13, 2014. Carrier’s File No. 2014-163371. General Chairman’s File No. 14-176-01D. BRS File Case No. 15093-L&N.”

**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.

By notice dated January 8, 2014, the Claimant was directed to attend a formal Investigation on charges that the Claimant allegedly violated Carrier rules in connection with a January 3, 2014, incident in which the Claimant allegedly failed to notify supervision that he had left the property, allegedly failed to provide updates on the active trouble ticket that he had accepted to investigate, allegedly improperly marked off Hours of Service, and allegedly inappropriately claimed time and wages when he did not report for work on December 27, 2013. The investigation was conducted, as scheduled, on January 13, 2014. By letter dated January 23, 2014, the Claimant was informed that as a result of the investigation, he had been found guilty as charged, and that he was being assessed a thirty-calendar-day suspension. The Organization thereafter filed the instant claim on behalf of the Claimant, challenging the Carrier's decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was provided a fair and impartial Investigation, because substantial evidence in the record proves the Claimant to be guilty as charged, and because the discipline imposed was not harsh, excessive, or arbitrary. The Organization contends that the instant claim should be sustained in its entirety because the Carrier failed to provide the Claimant a fair and impartial investigation, because the Carrier failed to meet its burden of proving the charges against the Claimant by substantial evidence, because the Claimant made a mistake in claiming compensation for December 27, 2013, because the Claimant asked his supervisor how to correct that mistake two days before the charges were issued, because the Claimant was called for service before he was fully rested under the Hours of Service, because the Claimant left the trouble ticket open in order to monitor signal trouble, because the Claimant did not claim any time that he was not due under the Hours of Service, and because the discipline imposed was harsh and excessive.

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

The Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit. A thorough review of the record makes it clear that the Claimant was guaranteed all of his due process rights throughout the proceeding.

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 Claimant was guilty of violating several Carrier rules on December 27, 2013, and January 3, 2014.

The Claimant clearly entered payroll information which was not accurate and left the Carrier property without updating the Carrier as to the status of the signal trouble that he had been assigned to correct. The Claimant's action clearly violated the Carrier's rules.

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. The Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case was charged with either being dishonest or neglectful. A thorough review of the record makes it clear that the Claimant was more neglectful than dishonest. Consequently, we find that the 30-day suspension was without just cause. However, there was a legitimate basis for the issuance of a 15-day suspension to the Claimant for his incidents of wrongdoing. Therefore, this claim will be sustained in part and denied in part. The 30-day suspension shall be reduced to a 15-day suspension, and the Claimant shall be made whole for the additional 15 days.

The claim is sustained in part and denied in part. The 30-day suspension shall be reduced to a 15-day suspension, and the Claimant shall be made whole for the additional fifteen days.

### **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 14th day of February 2018.