

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42954
Docket No. MW-43839
18-3-NRAB-00003-160471**

The Third Division consisted of the regular members and in addition Referee Sean J. Rogers when the award was rendered.

**(Brotherhood of Maintenance of Way Employees Division –
IBT Rail Conference**

PARTIES TO DISPUTE: (

(Dakota, Minnesota & Eastern Railroad Corporation

STATEMENT OF CLAIM:

- “(1) The Agreement was violated when the Carrier improperly entered a letter of reprimand dated February 23, 2015 into the employe files of Claimants S. Sturtz, M. Reiff, and J. Larsen (System File G-1534D-301/8-0039 DME).**
- (2) As a consequence of the violation referred to Part (1) above, Claimants S. Sturtz, M. Reiff, and J. Larsen shall now have the February 23, 2015 letters of reprimand expunged from their employe files.”**

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 Claimants were employed in the maintenance of way craft or class on the Carrier's Rail Crew. On February 18, 2015, the Claimants failed to report to their machines at the starting location at the Red Barn side track on the Chicago Subdivision as scheduled at 7:00 A.M.

As a consequence, Jacob Ward, Assistant Roadmaster, verbally counseled the Claimants regarding their failure to abide by the recently adopted Dressed and Ready Policy. On February 23, 2015, Ward issued each Claimant a letter of reprimand based documenting their violation of the policy and Ward's counseling. The letters were given to the Employees and added to their personnel files. There was no on-property handling, no investigation, no discipline and no loss of work or pay for the Claimants.

March 12, 2015, the Organization filed a first level claim. The Carrier denied the appeal at each level of the on-property processing of the claim.

The Organization asserts that Ward's letter of reprimand is unwarranted and unjust discipline because Ward failed to inform the Claimants of the new start location as required by Rule 24. For this reason, the Organization argues the on-property record fails to support the imposition of discipline.

The Carrier contends that the appeal is invalid and improper because it was not advanced by the General Chairman as required in the collective agreement. Therefore, the Carrier argues the claim should be denied on that basis alone.

The Carrier also asserts the reprimands were reminders and confirmations of Ward's discussions with each Claimant on the Dressed and Ready Policy. The Carrier argues that the policy provides that the first occurrence of non-compliance is a "Documented Discussion and Coaching Event" which is not discipline.

The clear language of the Carrier's Dressed and Ready Policy establishes that the first occurrence of a violation of the policy is a "[d]ocumented discussion and coaching event." Plainly, under the policy, Ward's counseling of the Claimants, followed by a letter of reprimand documenting his counseling and coaching for the first occurrence, is not discipline. Therefore, there is no factual basis for the Claim and it must be denied.

In addition, the on-property-handling record supports the conclusion that the appeal was not submitted by the General Chairman as required by Rule 33. For this

reason, the Board finds that the claim is not proper and the Board lacks jurisdiction to consider the appeal.

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 14th day of February 2018.