

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44557
Docket No. SG-45117
22-3-NRAB-00003-180566**

The Third Division consisted of the regular members and in addition Referee Richard K. Hanft when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation**

STATEMENT OF CLAIM:

“Claim on behalf of N. Glassmire, for reinstatement to his former position with all seniority and benefits unimpaired, compensation for all lost wages, including overtime, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 6 — DISCIPLINE, when it issued the harsh and excessive discipline of dismissal to the Claimant, without providing him a fair and impartial Investigation and without meeting its burden of proving the charges in connection with an Investigation held on June 15, 2017. Carrier’s File No. CRS-0040-17D. General Chairman’s File No. D-17-CR-304-1. BRS File Case No. 15813-CR(SA). NMB Code No. 173.”

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 in this matter had a seniority date of January 12, 2015 and was working as a Signal Inspector on the Vineland Secondary Track Territory in the South Jersey Shared Asset Area at the time giving rise to this dispute.

By Notice of Trial dated May 9, 2017 the Claimant was charged with violating NORAC Rule T by leaving his assigned territory without permission for extended periods of time on April 6, 11, 12, 18, 19, and 25. After a formal investigation held on the property on June 16, 2017 and review of the hearing transcript, the Assistant Chief Engineer of C&S determined that the transcript provided substantial evidence of the Claimant's guilt and upon review of the Claimant's work history determined to dismiss the Claimant from all service. The Claimant was apprised of Carrier's decision by letter date June 28, 2017.

The Organization then filed the instant Claim on behalf of the Claimant challenging the Carrier's decision to discipline him. Carrier has denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the Carrier violated the Signalmen's Agreement Rule 6 by issuing harsh and excessive discipline, failing to provide a fair and impartial investigation and failing to meet its burden of proof. The Carrier, on the other hand, submits that contrary to the Organization's protestations, Carrier provided the Claimant all guaranteed due process right under Rule 6, that there was substantial probative evidence of guilt established during the investigation on the property and that based on the record established on the property that the discipline assessed, dismissal, was fully warranted.

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

The Board has carefully considered the procedural arguments put forth by the Organization and find them to be without merit. The record affirms that the Claimant was afforded all of his due process rights throughout the proceeding.

Moreover, the Board has thoroughly examined the evidence and testimony on this record and find that there was substantial evidence on the record to support the findings on the property that the Claimant was guilty of leaving his assigned territory for extended periods of time without the permission of a designated official. the Claimant admitted as much on the record.

Concluding that sufficient evidence exists to support the finding of guilt made on the property the Board now considers the quantum of discipline assessed. The Board will not disturb the Carrier's imposition of discipline unless we find Carrier's actions to be unreasonable, arbitrary or excessive. the Claimant here was dismissed for violating Rule T by leaving his territory without permission of a designated official and extending his contractual lunch period on at least six (6) occasions during the month of April 2017. The Board cannot find that the Carrier acted unreasonably, arbitrarily or that the dismissal was an excessive discipline in this case. Hence, 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 Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 8th day of October 2021.