

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45448
Docket No. SG-48309
25-3-NRAB-00003-240046**

The Third Division consisted of the regular members and in addition Referee Bill Bohne Jr. when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(Northeast Illinois Regional Commuter
Railroad Corporation (NIRCRC) d/b/a METRA

STATEMENT OF CLAIM:

“Claim on behalf of E. Cano for compensation for all time lost, including overtime, with all rights and benefits unimpaired and with any mention of this matter removed from his personal record; account Carrier violated the current Signalmen’s Agreement, particularly Rules 53 and 56, when it issued the harsh and excessive discipline of a 30 day record suspension with a 36 month review period 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 January 15, 2021. Additionally, Carrier failed to respond to the Organization’s appeal within the time-limits prescribed by the Agreement. Carrier’s File No. 01-D-22, General Chairman’s File No. 01-D-22, BRS File Case No. 6294, NMB Code No. 203 - Minor Discipline: Safety/Operating Rules.”

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 December 17, 2020, the Claimant was directed to attend a Formal Investigation on Wednesday December 23, 2020, on charges that he allegedly reported to work with COVID-19 symptoms on December 14, 2020, in violation of Metra's safety guidelines. The Claimant was charged with alleged violation of the following rules: Metra's Code of Conduct Rule "B" paragraph #1, Rule "L" First Sentence, Rule "N" Item #1, and the COVID-19 Safety Acknowledgement form dated 9-30-2020. After numerous postponements caused by the COVID-19 pandemic, a formal investigation was finally held on January 15, 2021. By letter dated January 22, 2021, the Claimant was advised that he had been found guilty of all charges as presented and was issued a 30-day record suspension with a 36-month review period. The Organization filed the instant claim on behalf of the Claimant challenging the Carrier's finding of guilt and the assessment of discipline.

During handling of this dispute on the property, on May 31, 2022, the Organization filed its final on-the-property appeal with the highest Carrier officer designated to handle such disputes. Not hearing back from the Carrier in a timely manner, the Organization, in a letter dated October 26, 2022, and received by the Carrier on October 31, again demanded that their claim be allowed as presented because the Carrier had violated Rule 56 of the controlling agreement by failing to respond to the May 31, 2022, appeal letter. Rule 56 of the controlling agreement states in pertinent part:

"RULE 56. TIME LIMIT CLAIMS AND GRIEVANCES - (a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within sixty (60) days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within Sixty (60) days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. *If not so notified, the claim or grievance shall be allowed as presented, ...*" (emphasis added).

The language in Rule 56 is very clear and unambiguous, and abiding by the time limit stipulations in the agreement is mandatory and critical to upholding the integrity of the collective bargaining agreement. Carrier in this case violated Rule 56 of the

controlling agreement by not responding to the Organization's final on-the-property appeal until January 31, 2023, approximately six months late. In view of the foregoing, this Board deems it not necessary to address the merits of the case.

This Board has reviewed all remedies sought by the organization. We have made the determination that the only remedies allowable in accordance with the agreement are that the Claimant be made whole for any and all lost wages and benefits incurred because of the discipline imposed on him by the Carrier, and that his record be cleared of any and all mention of said charges and discipline assessed.

We would be remiss if we didn't address the additional remedies sought by the Organization. During the progression of this case the Organization requested additional remedies to this dispute, those being that a personal apology from the Chief Engineering Officer be given to the Claimant, and that the Organization be reimbursed for all expenses incurred by it in preparing and progressing this case on behalf of the Claimant. After careful review of the record and the collective bargaining agreement, we find that nothing in the agreement provides for such remedies. If not contractually provided for, there is no way that such remedies may be entertained by this Board. Accordingly, all such claims for an apology and for reimbursement to the Organization shall be dismissed.

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 3rd day of April 2025.