

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45482
Docket No. SG-48031
25-3-NRAB-00003-230489**

The Third Division consisted of the regular members and in addition Referee Rachel Goedken when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)**

STATEMENT OF CLAIM:

“Claim on behalf of J.S. Kutia, for reinstatement to his former position with all seniority and benefits unimpaired, compensation for all time lost, including overtime, and any mention of this matter removed from his personal record; account Carrier violated the current Signalmen's Agreement, particularly Rule 57, when it issued the harsh and excessive discipline of dismissal to the Claimant without just cause in connection with an Investigation held on April 20, 2022. Carrier's File No. BRS-162133-D, General Chairman's File No. 017-22 NY, BRS File Case No. 5954, NMB Code No. 103 - Out-of-Service 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.

The facts of this case are largely undisputed. Over the weekend preceding Monday, January 31, 2022, the Westerly, Rhode Island area experienced a winter

blizzard, which resulted in the accumulation of over twelve (12) inches of snow. On the morning of January 31, 2022, the Claimant set out to check and clear locations in his designated range of service. After arriving at the Westerly, Rhode Island Amtrak Station, the Claimant traveled the right of way from Westerly Yard Highstreet Interlocking, attempting to cross Westerly Siding track at the ballast crossing. The Claimant missed the ballast crossing and drove onto the siding track. He continued to drive six feet over the derail until he popped the rear driver's side tire on Amtrak vehicle AE32444.

After the Claimant realized the vehicle was stuck, he attempted to drive the vehicle forwards and backwards to get the vehicle off the main track and onto the ballast crossing. It was during this time that the Claimant realized he was fouling the main track. Upon exiting the vehicle, the Claimant used his cell phone to call New London dispatch in an attempt to stop any trains from proceeding to his location. However, at 9:30 AM, approximately 30 seconds after Claimant notified New London dispatch of the situation, Amtrak Train 171 collided with the vehicle.

The Claimant was issued a Notice of Investigation on February 4, 2022. The formal investigation was held on April 20, 2022, where the Claimant was represented by his union representative. The Claimant admitted that he fouled the track and used his cell phone to contact dispatch.

In the Carrier's Decision letter, dated April 25, 2022, the Carrier notified the Claimant that his actions on January 31, 2022, violated the Amtrak Employee Safety Rules (Rule 7.4), the Amtrak Roadway Worker Protection Manual (Rule 313), the NORAC Operating Rules (Rule 132), and Amtrak's Code of Ethics and Standards for Behavior (Sections II, II, III.A., V.B., and V.D).

On April 27, 2022, the Claimant was terminated from employment. The Organization appealed the Carrier's decision, arguing that the Carrier violated Rule 57 by implementing severe and disproportionate disciplinary action.

The Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record, including Grievant's admissions, to support the finding that the Claimant was guilty of violating the Carrier rules, cited above.

The Organization contends that the discipline was harsh and excessive. It points to two other employees who it asserts were guilty of similar infractions and

equally culpable, but who were afforded the opportunity to accept a waiver in lieu of an investigation. A review of the record, however, shows that unlike the comparator employees, the Claimant had multiple errors in his decision making accompanied by compounding violations. Accordingly, the Claimant was not similarly situated to the employees who were afforded the opportunity to accept a waiver in lieu of an investigation.

Based on the record, the Board does not find that the Carrier's decision was arbitrary, capricious, or unreasonable.

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 30th day of July 2025.