

NATIONAL MEDIATION BOARD  
PUBLIC LAW BOARD NO. 2406

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NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

-and-

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

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\* CASE NO. 65  
\* AWARD NO. 65  
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Public Law Board No. 2406 was established pursuant to the provisions of Section 3, Second (Public Law 89-456) of the Railway Labor Act and the applicable rules of the National Mediation Board.

The parties, the National Railroad Passenger Corporation (Amtrak, hereinafter the Carrier) and the Brotherhood of Maintenance of Way Employes (hereinafter the Organization), are duly constituted carrier and labor organization representatives as those terms are defined in Section 1 and 3 of the Railway Labor Act.

After hearing and upon the record, this Board finds that it has jurisdiction to resolve the following claim:

- "a) The Carrier violated the effective agreement dated May 19, 1976 on October 27, 1980, by unfairly and unjustly suspending Claimant Isaac Valentine for thirty (30) days.
- b) The Claimant shall be compensated for all wage loss suffered on account of this thirty (30) day suspension."

Mr. I. S. Valentine, hereinafter referred to as Claimant, entered the Carrier's service on March 30, 1977, as a Trackman.

At the time of the incident here involved he was working as a Trackman on the Baltimore Division.

The Claimant was notified by letter dated October 8, 1980, to attend a trial on October 23, 1980, in connection with the following charge:

"Violation of N.R.P.C. Rules of Conduct, Rule L, reading in part: 'Employees shall not sleep while on duty...' In that on October 3, 1980 at approximately 1:30 a.m. you were observed to be sleeping in a Company vehicle in the vicinity of MP 84".

The trial was held as scheduled. Claimant was present at the trial and accompanied by his duly authorized representative. Claimant acknowledged that he was properly notified of the trial and indicated a willingness to proceed. Claimant and his representative were given the opportunity to present evidence and witnesses, cross examine Carrier witnesses and make statements on Claimant's behalf.

Claimant was notified by Notice of Discipline dated October 27, 1980, that he was assessed the discipline of "thirty days suspension to be in effect fifteen days from date of notice."

Claimant appealed this matter which has been progressed through the highest officer of the Carrier designated to handle such matters.

There is more than substantial evidence in the record to support the Carrier's conclusion that the Claimant was sleeping in a Carrier vehicle at approximately 1:30 a.m. on October 3, 1980, while he was on duty.

There is no probative evidence to support the Claimant's contention that there was another employee on the bus, who also allegedly was not attending to his assigned duties. This naked assertion by the Claimant does not provide a basis for overturning his discipline on the grounds of disparate treatment.

Sleeping on the job is a most serious offense, and the Carrier's imposition of a thirty (30) day suspension in these circumstances cannot be considered arbitrary or overly severe.

Accordingly, the claim will be denied.


AWARD: CLAIM DENIED



L. C. Hriczak  
Carrier Member



W. E. LaRue  
Organization Member

  
Richard R. Kasher  
Chairman and Neutral Member

September 28, 1984  
Philadelphia, PA