

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 84

Docket No. NEC-BMWE-SD-2020D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant J.W. Curry is employed as a track foreman by Carrier in Philadelphia, Pennsylvania. On October 30, 1987, Claimant was notified to attend a formal investigation of the charge:

Violation of Rule "D" of Amtrak's Rules of Conduct, the part which reads, "Employees must understand and obey company and departmental policies, procedures and special instructions . . . ."

Violation of Amtrak's Operating Rules & Instructions, Rule No. 629, that part which reads, "Trains must not pass an interlocking signal indicating STOP, except when authorized by a Clearance Permit Form C."

Violation of Amtrak's Operating Rules & Instructions, Rule No. 802, that part which reads, "Foremen . . . must be qualified annually on the Operating Rules and physical characteristics of the territory over which they are to operate."

Specification: In that at approximately 11:21 p.m. on Thursday, October 22, 1987, Sperry Rail Car SRS 143 - while under your supervision as Foreman/Pilot - passed 206L signal in the stop position and ran through No. 203 switch in the reverse position. You accepted this assignment and were not qualified on the section of the railroad.

The hearing took place on November 23, 1987, and as a result, Claimant was assessed a thirty-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

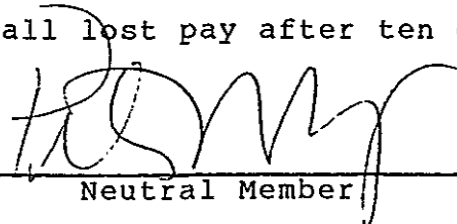
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the rule violations with which he was charged. Therefore, the Carrier had a sufficient basis to issue discipline to the Claimant.

Once this Board has determined that there is sufficient evidence

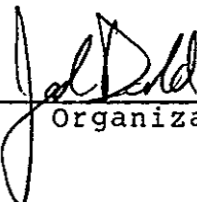
in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Although the rule violations with which the Claimant was found guilty are serious, the record also reveals that the Claimant has performed service for many years for the Carrier with no previous discipline on his record. Given that work history and the nature of the offense, this Board finds that the action taken by the Carrier in assessing the Claimant a thirty-day suspension was unreasonable. This Board orders that the discipline be reduced to a written warning and a ten-day suspension, and the Claimant shall be made whole for all lost pay after ten days. This Board believes that this long-term employee will get the message that the Carrier intends to transmit without the necessity of the lengthy suspension.

Award:

Claim sustained in part. The thirty-day suspension is hereby reduced to a ten-day suspension plus a written warning. The Claimant is to be made whole for all lost pay after ten days.

  
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Neutral Member

  
\_\_\_\_\_  
Carrier Member

  
\_\_\_\_\_  
Organization Member

Date: 1-26-89