

NATIONAL RAILROAD ADJUSTMENT BOARD

Form 1

FIRST DIVISION

Award No. 24252

Docket No. 43854

93-1-92-1-U-1673

The First Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers  
(  
(Union Pacific Railroad Company (former C&E  
(Railroad)

STATEMENT OF CLAIM:

"Claim of Engineer T.R. Ring that he be paid all lost time incurred as a result of a forty five (45) days actual suspension assessed against him on April 12, 1991, and that his record be cleared of any notation of this discipline."

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

On April 12, 1991, Claimant voluntarily signed the following document:

"In connection with report you allegedly failed to protect your assignment as engineer on the Villa Grove extra board when called for Train CHHOZ, on March 25, 1991 at 10:30 p.m., indicating violation of General Rules A, B and Rule 605 of the General Code of Operating Rules, effective October 29, 1989.

Therefore, pursuant to the provisions of the applicable agreement between the United

Transportation Union (T) (E) and the Company, you are hereby notified the Company proposes to assess your personal record with fifteen (15) days deferred suspension. Also, due to having thirty (30) days deferred suspension on your record for failure to protect shove (February 15, 1991), you will now be required to serve forty-five (45) days actual suspension, effective April 12, 1991 and ending 12:01 a.m., May 27, 1991.

You may waive hearing and accept discipline by signing and returning the original of this notice."

Subsequent to signing the above quoted waiver of Investigation, Claimant asserted that he was either confused or had been misled about the consequences of signing the waiver. Claimant believed that if he signed the document, a fifteen day deferred suspension would be placed on his record. Stated differently, Claimant did not expect to be actually suspended from service.

Claimant, who voluntarily signed the April 12, 1991 waiver of Investigation, could hardly misunderstand its terms. In clear, unequivocal language, the waiver provides that as a result of being assessed with a fifteen-day deferred suspension, Claimant must actually serve a forty-five day suspension because he had a prior thirty-day deferred suspension on his record. Since Claimant could not possibly misconstrue the total quantum of discipline being imposed on him, this Board must deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of First Division

Attest: Catherine Loughrin  
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 1st day of November 1993.