

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

PARTIES TO DISPUTE: (Robert M. Desko
(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an - ex parte submission on April 15th 1988 covering an unadjusted dispute between myself and the Norfolk & Western Railway Company, involving the question: Of the revoking of my foreman rights at a hearing on December 22nd 1977 held in Bellevue Ohio.

The circumstances in question involve a phone conversation with Mr. Woods, he said to secure the camp cars. I asked Mr. Woods to call Property Protection, he said 'No, lock them up and leave'. I told Mr. Woods that I did not have the money to pay for locks and hasps and a drill, and that no stores in Painesville would take a po#. Mr. Woods said 'Get them secured and go home'. J.J. Santelli-Trainee was there and he said that he was going to be there and that he would take care of securing the camp cars." (sic)

FINDINGS:

The Third 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 employes 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 waived right of appearance at hearing thereon.

Claimant, a Foreman, found vandalism and some theft in the camp cars which were on a siding removed from the work site. This event, on December 15, 1977, took place at about 3:00 P.M. Claimant decided to report the theft to the office before the end of the work day. He left the work site for this purpose after specifically being told to finish the work day before making the report, by his Supervisor. Thereafter Claimant was charged with leaving his work place without proper authority. Following an Investigation, Claimant was

found guilty and assessed a thirty day actual suspension and also loss of his Foreman's seniority. The Claim, as filed by the Organization, was processed normally on the property and was settled by letter dated May 18, 1987; in that settlement the discipline was reduced to a fifteen day actual suspension. The Claim herein deals only with Claimant's seniority as a Foreman.

Claimant argues that he did not leave Carrier's property on the day in question and therefore was not guilty of any infraction. Carrier maintains first that the Claim before this Board is inappropriate in view of the settlement with the Organization and in any event Claimant was guilty as charged.

The Board must dismiss this matter without evaluation of the merits for the following reasons: First, under the provisions of Section 3 First (1) of the Railway Labor Act the Board has no jurisdiction over disputes which have been resolved on the property. Secondly, it is a fundamental and accepted principle of labor relations that settlements of disputes by authorized representatives of the parties are final and binding and may not be subsequently rejected by individuals who were not present during the settlement proceedings. As this Board said in Third Division Award 21011:

"To hold otherwise would be to undermine the integrity and validity of the lower level grievance procedures on the property which are designed to facilitate and encourage prompt, equitable and binding resolution of claims short of arbitration."

We reaffirm this reasoning and for the foregoing reasons, the Claim must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1990.