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NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25424

Docket No. 45590

03-1-02-1-N-2267

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

(Roger D. Griffeth

PARTIES TO DISPUTE: (

(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

"Claim of Engineer Roger D. Griffeth for reinstatement to service with seniority unimpaired, vacation credits, payment for all earnings lost, health and welfare benefits, and any and all other benefits routinely and contractually attributed to active employees, as a result of being dismissed from service beginning May 15, 2001."

FINDINGS:

The First 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.

On June 22, 2001 the Carrier dismissed the Claimant from its service. At an Investigation held on June 13, 2001 the Carrier found that the Claimant violated Rule 240 on May 14, 2001.

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The facts in this case are not in dispute. On May 14, 2001 the Claimant was the Engineer on NS Train G38G1 when he passed a stop signal without proper authority at Milepost 235A.

The only dispute before the Board is whether the discipline was excessive. The Claimant was first employed by the Carrier on October 1, 1971 with an Engineer seniority date of May 14, 1973. Prior to this incident the Claimant was last disciplined on March 7, 1988. Since then the Claimant was on Leave of Absence for 53 months, serving as a Union official.

After the incident the Claimant was awarded a Disability Annuity by the Railroad Retirement Board effective November 1, 2001. The Claimant began seeking medical help on May 15, 2001. Because of the requirements of the RRB the Claimant's disability was determined to have begun on May 15, 2001, the day after the stop signal was run.

The nature of the Claimant's disability is such that he never will be able to return to work. The Claimant does not want his work record to show dismissal as the last entry.

Based on the Claimant's length of service with the Carrier, 26 years, the Board finds the discipline to be excessive. Accordingly, based on the facts in this case the Claimant will have his name restored on the appropriate Carrier Engineer Seniority Roster with a disability notation. There shall be no pay for time loss; actually there was none. The Claimant's record to show the discipline was reduced to a six-month suspension.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Dated at Chicago, Illinois, this 30th day of April 2003.