

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 32593  
Docket No. MW-32677  
98-3-95-3-614

The Third Division consisted of the regular members and in addition Referee Richard R. Kasher when award was rendered.

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Southern Pacific Transportation Company  
( (Eastern Lines)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier's decision to withhold Welder J. R. Magallanez from service and his subsequent dismissal for alleged violation of Rule 1.6 of the Safety and General Rules in connection with the charge of '... dishonesty in claiming and/or accepting pay to which you were not entitled between May 1, 1994 and February 22, 1995....' was arbitrary, capricious, without just and sufficient cause, on the basis of unproven charges and disparate treatment (System File MW-95-83/MW D95-13 SPE).
- (2) As a consequence of the violation referred to in Part (1) above, the Claimant shall be reinstated with all seniority, vacation rights and any other rights accruing to him unimpaired, his record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered beginning February 22, 1995 and continuing until he is returned to service."

FINDINGS:

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

Form 1  
Page 3

Award No. 32593  
Docket No. MW-32677  
98-3-95-3-614

**AWARD**

Claim sustained in accordance with the Findings.

**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 Third Division**

Dated at Chicago, Illinois, this 22nd day of May 1998.