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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6466
Docket No. 6324
2-N&W-CM-'73

The Second Division consisted of the regular members and in addition Referee John J. McGovern when award was rendered.

Parties to Dispute: (System Federation No. 16, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That the Carrier violated the Agreement of September 1, 1949, as subsequently amended when on July 22, 1970 Car Repairer A. E. Bradshaw, III was given a formal investigation for charges that were not specific, resulting in unreasonable and capricious assessment and ten (10) day record suspension against his service record.
2. That because of such violation and capricious action, Carrier be ordered to remove such ten (10) day record suspension from the said employee's service record.

Findings:

The Second 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 waived right of appearance at hearing thereon.

This is a disciplinary case, wherein after charges were lodged against the Complainant and an investigation held, a finding of guilty as charged was made and a penalty of 10 days suspension imposed.

On the property, the claim as it was progressed contended that

- (a) the charges lodged against Complainant were not proven during the formal hearing or investigation.
- (b) Complainant was not notified of the 10 day suspension within sixty days as prescribed by the provisions of Article V of the August 21, 1954 Agreement.

The claim submitted to this Board alleges that Complainant "was given a formal investigation for charges that were not specific."

We are left with no alternative other than to conclude that the claim under consideration is at fatal variance with the claim progressed on the property. This is in violation of Section 3 First (i) of the Railway Labor Act. The claim therefore must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: _____

E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1973.