

The Second Division consisted of the regular members and in addition Referee Gene T. Ritter when award was rendered.

Parties to Dispute: { System Federation No. 3, Railway Employees'  
{ Department, A. F. of L. - C. I. O.  
{ (Electrical Workers)  
{  
{ Kansas City Terminal Railway Company

Dispute: Claim of Employees:

1. That the Kansas City Terminal Railway Company is violative of Rule 28 and has unjustly dealt with and damaged Electrician R. E. Custer when they suspended him from the Carrier's service on March 19, 1973, pending formal investigation; denied him the right to a fair and impartial hearing on March 29, 1973; tried him in absentia and dismissed him from the service of the Carrier by certified notice dated March 30, 1973.
2. That, accordingly, the Kansas City Terminal Railway Company be ordered to restore the Petitioning Claimant, R. E. Custer, to the service of the Carrier with his seniority rights unimpaired, compensated for all time lost, made whole with respect to vacation rights, hospital, medical and surgical benefits, and group life insurance; and,
3. In addition to the money amounts claimed herein, Carrier be ordered to pay interest on the principal amount claimed, computed at the rate of 6% per annum and compounded annually from the anniversary date of this claim.

Findings:

The Second 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 waived right of appearance at hearing thereon.

The record in this dispute discloses that Carrier denied this claim in conference on June 1, 1973, which was confirmed by a letter from Carrier on June 27, 1973. The appeal to the Superintendent on September 27, 1973 was beyond the sixty days allowed for the appeal in the 1954 National Time Limit Rule requiring that a disallowed claim or grievance must be appealed in writing and be taken within sixty days from the receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with the provision, the matter shall be considered closed. This provision of said Time Limit Rule is jurisdictional and this Board has no authority to enlarge the time within which an appeal may be made.

A W A R D

Claim Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By

Rosemarie Brasch /cc  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of November, 1976.