



Award Number 5872

Docket Number 5626

2-IC-EW-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William H. Coburn when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the current agreement at Weldon Coach Yard, Chicago, Illinois, on March 15, 1966, when it ordered Electrician H. E. English to attend an investigation on one of his regular rest days and did not compensate him for this day.

That the Carrier further violated the current agreement when it held this investigation on one of the rest days of one of the duly authorized Committeemen, J. K. Brady, and did not compensate him for this day.

That the Carrier still further violated the current agreement when it failed and refused to furnish a copy of the stenographic report of this investigation to the Committee.

2. That the Carrier be ordered to compensate Electrician E. H. English, employee number 100822, and Committeeman J. K. Brady, employee number 100732, for eight (8) hours each at the rate of time and one-half for March 15, 1966, and immediately furnish the Committee a copy of the stenographic report taken of this investigation.

EMPLOYEES' STATEMENT OF FACTS: Electrician H. E. English and Committeeman J. K. Brady, hereinafter referred to as the Claimants, are employed by the Illinois Central Railroad Company, hereinafter referred to as the Carrier.

That the Local Committee, on March 4, 1966, was presented a copy of a letter notifying them that a formal investigation would be held in the office of the General Foreman on Tuesday, March 8, 1966, at 9:00 A.M.

This letter was dated March 2, 1966 and was addressed to Mr. H. E. English, Mr. F. A. Hauenschild, and Mr. J. H. Dewey, and was signed by General Foreman C. S. Keune.

That Committeemen R. T. Swartz and R. T. Steiger were instructed by a Carrier Supervisor, on March 8, 1966, at around 9:00 A.M., to report to the General Foreman's office. Both of these committeemen were working this day

an investigation was not included in Rule 39 and therefore must be presumed excluded.

IV. SUMMARY AND CONCLUSION

The company has shown that there is no rule to support any of the organization's claims. The Adjustment Board should follow the precedents followed in previous Illinois Central cases and deny the claims.

All data is known to the union and is part of this dispute.

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 employees involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Dispute 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.

Claimants here are representatives and principals who testified at an investigation held March 15, 1966 (See Awards Nos. 5870-5781).

The claim is based upon the theory that the Carrier is liable for payment of compensation to **representatives** of employes subject to discipline where, as here, they appeared at an investigation conducted on their rest day.

The theory upon which this claim is based has been rejected as untenable by the Division in Awards 5342 and 5371 involving these same parties, and in Awards 3260, 4363 and 4047. We concur in the findings of these awards and adopt them as controlling here.

Petitioner's assertion that the Carrier violated the Agreement by its failure to provide a copy of the transcript of the investigation to the Local Committee is without merit under the rules in effect on this property. Rule 37 applies to grievances initiated by the Employees and does require the Carrier to make the transcript, if one is taken, available to the Committee. The case at hand resulted from a disciplinary proceeding initiated by the Carrier under Rule 39. Consequently, that rule and not Rule 37, is controlling. Accordingly, there was no violation of the Agreement, as alleged.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 9th day of April, 1970.