

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications Union  
(  
(Chicago Short Line Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-10285) that:

1. Carrier violated the objective conditions of employment when, following an investigation on January 5, 1988, it suspended Car Repairman Helper W. Metzger from service for a period of ten (10) days, commencing on January 21, 1988;

2. Carrier shall now compensate Mr. Metzger for all time lost and shall clear his record of the charge placed against him.

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 employes 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 indicates that at the time of the occurrence giving rise to the dispute herein there was no collective bargaining Agreement in effect governing rates of pay and working conditions of Claimant.

The burden is upon the Organization to prove that a collective bargaining Agreement was in effect at the time of the occurrence involved, and that such Agreement was violated by the Carrier. It is well settled that the jurisdiction of this Board is confined to disputes which flow from grievance provisions of a collective bargaining Agreement.

There is no proper basis for this Board to consider the dispute and the Claim will be dismissed. (See Fourth Division Award 4683).

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 27th day of September 1989.